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# Intercollegiate Debates

*(Volume IV)*

**A YEAR BOOK OF COLLEGE DEBATING**

**WITH RECORDS OF QUESTIONS AND DECISIONS,  
SPECIMEN SPEECHES AND BIBLIOGRAPHIES**

**PRINCETON — HARVARD — YALE FRESHMEN — COLORADO —  
KANSAS — OKLAHOMA — TEXAS — MISSOURI UNIVERSITIES —  
KANSAS STATE AGRICULTURAL — OTTAWA — RIPON — IOWA  
TEACHERS' — ILLINOIS AND KANSAS WESLEYAN COLLEGES**

**EDITED BY**

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**HINDS, NOBLE & ELDREDGE, PUBLISHERS  
NEW YORK CITY**

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## PREFACE

THE reception accorded its predecessors in this series of intercollegiate debate publications makes this volume not only possible but almost a necessity. The patrons and readers of such a work as this learn to look for its annual appearance, and, upon its failure to appear as promptly as they could wish, do not hesitate to shower inquiries upon the editor by correspondence. Such letters are welcome, however, and make the task of compilation and editing a pleasure, for it is gratifying to know that there is an interest in this work and that it is missed if absent from the reference shelves in the library.

The present volume seeks only to continue the work begun in Volumes II and III of the series. Its plan is the same; its purpose is the same; and, it is hoped, its reception will be the same. It is true that one or two changes in details have been made but, we trust, for the better. A new subject has been added to the Appendix, Specimens Debate Contracts and Agreements, etc., and the method of listing debate organizations in Appendix I has been changed to save space and make room for this addition.

The debates included in this volume are all recent,

belonging to the school year, 1912-13, and are on subjects of nation-wide importance. They are uniformly good as the standard of debating goes in American colleges, and, with the exception of the University of Texas speeches, appear in print here for the first time. Many of them are winning speeches, and those which are not have merit enough to commend them to our attention.

The editor wishes to acknowledge his indebtedness to the contributors who have made the book an actuality, and who, by their industry, have also made it valuable. It is this willing and enthusiastic coöperation on the part of the many that gives all an opportunity to review the debating record of the year and to peruse some of the better speeches on subjects which are still of considerable interest. The thanks of the editor are also due to those who offered contributions which lack of space and the limitation of subject-matter excluded from the book. It is to be hoped that at another time with debates on subjects not heretofore used in this series they may gain access to a future volume of Intercollegiate Debates. Certain sections of the country have not as yet been represented in the debates of this series and, in fairness to all and for purposes of comparison, it is highly desirable that they should be. The editor will welcome communications concerning the publishing of debates of the coming year.

It is, then, with considerable pleasure and some pardonable pride in the completed task that Volume IV

Intercollegiate Debates is given to its readers. May it add its mite to the prospering cause of college debating.

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*October, 1913.*

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## INTRODUCTION

THE editor having previously, in the introduction used for Volumes II and III Intercollegiate Debates, unburdened himself of some thoughts about debating which have not been much altered since, and having there explained the purpose of this series of published debates, an introduction to the present volume is almost superfluous. The custom of book makers, however, demands an introduction, so far be it from me to interrupt so time-honored a custom (though in this case it might be more honored in the breach than the observance) especially when I by such observance may indulge the pedagogical propensity for talking. There are some comments on debating and on the record of the last year, which, as editor and compiler of this volume and series, I feel qualified to make whether they are worth the making or not.

### PROGRESS OF DEBATING

Debating has progressed in the two school years which have passed since the introduction to Intercollegiate Debates Volume II was written, progressed in favor with college students. I base this assertion upon the fact that more colleges and universities are debating now than were debating then, as many institutions reporting no debates in 1911 have since reported a beginning in this intercollegiate activity. I base the asser-

tion in the second place upon the fact that the number of debates held annually in many colleges and universities has increased. In some cases the number of yearly debates has doubled, and in a few cases more than doubled if it has not been trebled. In the third place, the assertion is based upon the fact, obvious from the two foregoing statements, that more college men than ever before are now interested and are taking part in this activity annually. Beyond the passing comment that it is a fine thing to have an increasing number of institutions take up debating and to have an increasing number of college men receive training in debate these points need no amplification. The second point, however, will bear a little discussion.

The increase in the number of debates at several colleges and universities during the last year may well excite comment. That there will be a reaction and a tendency toward fewer debates at some of these schools is inevitable. This will prove true at all of them if the present condition is abnormal. For the present college generation, well supplied with debaters as it is, may be followed by one in which debaters are scarce. It is evident that the number of debates will necessarily fluctuate with the number of creditable debaters available to represent the institution. One thing only may change or complicate this conclusion; that is—the number of times in one school year that the same debater can afford to appear.

There is a tendency, and a marked one, for many “young speakers” to enter as many contests as “the fac-

ulty will permit." Where there are no restrictions a student of some ability often takes part in two or three debates or a debate and an oratorical contest. That this is a good thing for the "young speaker" from the point of view of those contemplating his progress in forensics cannot be doubted; that it is a bad thing for "his studies" is also unquestioned, that is, by any one who has ever attended a meeting of the faculty at the proper time to be enlightened. The coach almost feels accused of exercising a hypnotic influence over his men or of corrupting their possibilities of good scholarship. Such things have been far from his intentions, and he is not, in reality, to blame. Debating exercises a certain fascination over the mind capable of "argumentative enthusiasm" which amounts practically to a hypnotic enticement in some individual cases, to a passionate love and following of the game in others, and to an inhibition of the routine work necessary to the college curriculum in many others. A neglect of study for any college enterprise naturally arouses complaint from any teacher who has the firm purpose of keeping a standard of work in his department. Ideally speaking, the student should not neglect his work to engage in college enterprises; the "side-show," as the worthy ex-president of Princeton puts it, should not overshadow the "main tent." Yet some neglect of work and consequent lowering of class standing is only natural if the college enterprises fall upon a small group of students and are to be properly carried out. This calls for some leniency on the part of the instructor, or for some compen-

sation for the student in the event of his being made too uncomfortable by the grade sheet on account of his public spirit. Football players have long demanded this leniency, and I have noticed, generally get it. As for those engaged in forensics, each school must meet the problem in its own way. The honorary society has been the outgrowth of a desire to compensate the debaters for sacrifices of time and higher standing in their regular courses.

Again, to prevent youthful enthusiasm from devouring itself many faculties have either forbidden or discouraged students from entering more than one forensic contest during a single school year. This is not entirely a wise action; that is, its wisdom depends upon its individual application. Overloading the debate schedule, however, has a tendency to bring about such action, despite the fact that the same faculties are careful to gauge, upon his individual capacity within certain limits, the number of hours that a student may carry in his regular studies. It would be reasonable to apply such a principle to the amount of college enterprise the student should carry. The one redeeming feature of such a sweeping rule as the "one contest rule," is that more men are given the opportunity of engaging in intercollegiate debating if the number of scheduled contests is not cut down.

An interesting fact is that some institutions are taking pride in the custom of using "different men" for each team, and are foremost in organizing what is known as the "squad system." A squad, technically, is a group

of men working together or against each other, affirmatively and negatively, on the same question. In the universities, where there are numerous candidates for the teams, this system works well and the one contest rule is a success. The usual effect of the one contest rule on the small college is to lessen the number of debates, for the disgrace of being defeated is felt too keenly and "new material" is not sufficiently trusted for the debate manager or the council to "take a chance." That this is rather cowardly and somewhat unworthy of college men is perceived by no one sooner than by college men themselves. The upshot of it is that the "new material" ultimately gets a chance. That this may result in a series of defeats is quite true, but what of that?—the race is not always to the swift—nor is the good gained from debating the sole possession of the winners. A decision in a debate is too often little more than the whim or caprice of one judge. Should college men once begin to weigh debating upon a basis of decisions, the end of this activity would be in sight.

In considering the progress of debating there is a second consideration. Debating has progressed not only in favor with college men, but it has been undergoing changes of a constructive nature, or as friend Shakespeare would express it, "native" improvement. In other words, debating has been growing more and more into its own type. It has been divorced from college oratory for some time but has never quite shaken off the effects of the amour. Time was when debating, as conducted in Middle Western colleges (its native soil) was pri-

marily a contest in oratory. However, the old-fashioned two-on-the-team debates, which afforded rebuttal to one of the affirmative speakers only—thus providing for the prepared, oratorical speech—have almost passed out of vogue. Two men teams persist it is true, but for other reasons, for it is customary now to give each speaker a rebuttal speech or at least to allow one rebuttal on each side. The old-style method of debating is considered a mark of provincialism and of lack of progress, the united kingdom of debate having adopted the university system, or rebuttal speeches for all debaters, long since. During the last few years the strongholds of the old order have decreased. This is as it should be. A debate is a rough and ready, catch-as-catch-can wrestle. It is not a kid glove, part-your-hair-in-the-middle exercise in polite elocution. Neither is college oratory for that matter, but this thing of delivering a written speech carefully adorned with simile and gesture and doing nothing else does not bring into demand the quick and ready powers of the true debater. It does not give the real debater an opportunity. It is the rebuttal which does this. Consequently, it is in the rebuttal speeches that the highest interest of the debate centers. The real test is found here and it demands the best of speakers. That is why the old system is passing, and this change of system is important for it is a movement toward the ideal in debating, extempore controversy.

Again, there is some change in the valuation placed upon committed and extempore work on the part of col-

lege men, and this is for the better. First speeches or constructive speeches are still more often committed than not, but the college man has a hearty respect for the man who is not bound to a manuscript. He receives the undergraduate adoration as the "best debater in school," and the congratulations, or what is more, the confidence of his colleagues. The debaters who can not trust themselves fully in extempore work during the strain of an intercollegiate debate are seeking an escape from the limitations of the committed speech by preparing in a concise way and committing or nearly committing much more material than they can give in the time allowed. This wider preparation gives them a choice of arguments, a chance to shift in order to meet opponents' arguments, and saves them from the embarrassment of discussing arguments which have not entered the debate. This method is called the "block system," probably because each argument is prepared as a single unit or block and may be fitted into the speech at any given point. The particular merit of this method is that it makes the speaker more ready; it enables him to defend more territory. Besides this, it gives a nearer approach to the effect gained from extempore work, and trains the debater in the use of his judgment. The block system has no particular difficulty except that of a demand for increased industry. The man who is unwilling to do more than he is obliged to does not choose this system. It is for the willing and careful worker who cannot trust entirely to his extempore powers. By far the greater number of college debaters belong to this



class, and undoubtedly the block system will be used more and more each year. The adoption of this method will make for better debating, hence it belongs in the category of progress.

#### THE STRATEGY OF DEBATE

The second subject for comment in this introductory sketch on debating is—the strategy of debate. Debating, like football and baseball, makes considerable use of cunning, of careful planning, of “headwork.” Debates are won by policies, by carefully planned systems, by ingenious arguments, by strategies. This will be news to many an outsider, for to the uninitiated the requirements of debating seem to be a “flow of language,” “the gift of speaking” combined with a knowledge of the subject gained in preparation. But nevertheless it is true; debates are won by “inside play,” by “outguessing opponents.” This is the most interesting thing about debating for the coach and the teams. The keenest delight is taken in a victory which is the result of careful planning, of long-pondered strategy, or of some discovery achieved by the sweat of the brain. There isn’t so much happiness over a victory which is three-fourths luck, or which is won because of innate superiority. College men, the best of them, are not seeking a chance to defeat weaker rivals; they are too class jealous for that; they wish their opponents to be their equals or their superiors, for class demands as a basic law that opponents be worthy. There is then more honor in the victory; it insures their class standing.

A classification of debating systems or policies is difficult. They exist but it is hard to name and define them. There are affirmative and negative styles. It is a general rule of debating that he who affirms must prove, and unless a question is stated negatively for strategic reason or design, the affirmative is obliged to carry the burden. In present day debating the questions almost invariably deal with some industrial, economic, social or political problem. The affirmative is as a rule concerned with the establishment of some reform, the adoption of some new policy, plan or method. Obviously the first thing to do is to attack present conditions presenting the evils; the next thing to do is to present a remedy or constructive plan of some kind; and the last thing to do is to prove that such a plan or remedy will succeed, that it is practicable and desirable. Various changes are rung upon this procedure, but these are the essential things to be done, generally speaking, on the affirmative. The negative, on the other hand, must defend present conditions and point out the weaknesses and the impracticability of the affirmative proposals, or the negative may admit the affirmative attack upon present conditions, offer a substitute plan and prove its superiority to the affirmative proposal. This is, in general, a statement of what happens in a debate. It is in the methods pursued to accomplish these things that the strategy, the skill of debating is found.

Each style or plan, or we might say system of debate has its varying methods and strategies. First there is the conventional style of debate. The conventional de-

bate is one which is confined to the well-known and accepted arguments on a given subject. It follows the general outline for affirmative or negative debating stated in the preceding paragraph, and depends upon clear and forcible statement, upon simplicity and attractive delivery to gain the favorable decision of the judges. The conventional policy is the one most commonly followed, for it is basic, fundamental. It corresponds to what is called "straight football" on the gridiron. The merits of this style of debating are: it impresses the audience as fair and honest; it gives the audience a comprehensive grasp of the subject and avoids the appearance of one-sidedness; it appeals to the audience as "game," sportsmanlike, and worthy. When it makes such impressions as these the conventional system usually wins. When opposed by some particularly brilliant arrangement or treatment of the subject under discussion according to some special plan or system it quite often fails ignominiously. However, despite this occasional upset, the conventional system is a safe one.

Among the special styles or systems the surprise debate is most noteworthy. A surprise debate is, naturally, one which catches opponents off-guard, or napping, which presents them with a course of reasoning or with some striking or effective argument which in preparing for the debate they have entirely overlooked. A surprise, then, is any departure from the conventional or accepted argument which is of importance. The side springing the surprise hopes to gain the jump on op-

ponents during the first few moments of bewilderment while they are floundering around and casting about for a satisfactory answer. Inability to summon some answer to a surprise argument is usually fatal, that is, if the surprise argument is in the least vital or important in settling the issues of the debate. This last qualifying clause, as all will recognize, makes a genuine surprise difficult to find. Surprises in ordinary debating consist as a rule in presenting a novel point of view and in arranging arguments in accordance: in the interpretation of the question and in the consequent arrangement of the argument; in the newness or novelty of a substitute plan; in an argument or piece of evidence which proves to be a discovery or a contribution to the subject in controversy. The first two named are quite often affirmative surprises and the last two negative surprises, but all four are common to either side of a question.

First, the surprise in point of view is most frequent, as there is no end to the variety of cast that can be given to arguments for or against well-known propositions. If the surprise in point of view is ingenious and skilful it is sometimes very hard to combat. In the Colorado Negative debate on the trust question included in this volume there is a surprise in the point of view in the third speaker's contention that the principles of the Sherman law would have to be utilized in any successful plan of trust regulation, hence it would be inadvisable to repeal the Sherman law. This is clever debating, and the establishment of this point of view no doubt had something to do with the decision for the negative.

That the Colorado debaters valued this argument highly is shown by the position in the debate which they assigned to it—last or climactic place.

Second, surprises in the interpretation of the question too often make the debate a continuous round of quibbling and wrangling. This form of surprise is not popular with audiences, and is not often successful. In wrangles over the question the audience and the judges are apt to favor the side which shows the spirit of fairness in its interpretation, hence the side forcing the issue quite often gets the worst of it. It occasionally happens though that a tremendous loophole is found in a question that is not carefully stated, and by building up an interpretation that is unlooked for a victory may be won. Care must be taken, however, not to warp the question from its true meaning, for audiences and judges are quick to resent a debate in which the two sides fail to clash in argument, or in which one side seems to be off at a tangent, or by its interpretation seeks to unload a part of its burden of proof. In the Ripon Affirmative debate in this volume the interpretation of "engaged in interstate commerce" which the first speaker gives is open to question. Both of his colleagues were prepared to back up this interpretation with court decisions and artful reasoning but the interpretation is obviously made to relieve the affirmative of part of its burden of proof and was not conspicuously successful although the argument given by the third speaker in support of this interpretation was not successfully answered by any of six opponents. In the Ottawa Affirmative debate on gov-

ernment ownership of railroads, also in this volume, there is a successful dodging of a part of the burden by the simple device of claiming the decision upon insufficient evidence. This is getting at the surprise negatively, that is, by not interpreting the question or defining carefully what ought to be shown to prove the case.

Third, the novel substitute plan advanced by negative teams is a method of surprise frequently employed. With some debate questions it is occasionally possible for the affirmative to choose from several plans of procedure, and in such debates the affirmative has an excellent opportunity to spring a surprise. Quite often debates in which plans figure are little more than a fight over their relative and comparative merits. The decision usually falls to the plan demonstrated to be the more practicable, or to the one which by virtue of being a surprise escapes a thorough exposure and condemnation from its opponents. This may be the more novel plan or it may not be; novelty of itself is not enough. A few years ago Baker University lost a debate to Ottawa University on the federal income tax because the plan of assessment and collection was not the one they expected the Ottawa Affirmative to propose. Instead of putting up a novel and unique plan which had been devised at one of the universities for debating purposes, but which, since it was getting to be well known, the Ottawa men had reason to expect the Baker men would be prepared to meet, they proposed the English plan of stoppage at the source. As was expected the Baker team had a carefully prepared speech all ready for the

university's novel plan of assessment and collection. The Ottawa debaters had the pleasure of pointing out, as they had planned to do, that the Baker team was hammering a straw man and had not touched their plan. The debate was lost before the Baker men could readjust themselves, and this, it may be pointed out, was partly due to the limitations of the committed speech. The Ottawa coaches and debaters counted on this when they planned the debate. In the Ripon Negative debate on the Federal Charter printed in this volume there is an example of the surprise substitute plan in the third speech. It is rather a complicated plan, and was saved because its opponents did not have time to examine and attack it properly, being too much astonished at the preceding speech on the negative. This was counted on when the plan was devised.

The reference to the second speech of the Ripon Negative on the Federal Charter leads us to the fourth and last topic, the surprise in argument and evidence, the most successful and complete form of surprise debating. This speech contains an excellent example of this sort of thing. As the question is stated it is almost impossible to answer the argument of "evasion" presented. It is one of those prize finds which the enthusiastic debater is ever seeking but is so seldom permitted to discover. The honor of finding it belongs to Mr. Paluka, not to his coach or to his fellow debaters. Many debaters have read through the sources Mr. Paluka used without perceiving the argument, or its significance, or a way in which they could use the facts he uncovers.

The argument and evidence was not foreseen and was not answered by any of its opponents.

A third system of debate is that called the one-point debate. This was the favorite method of Abraham Lincoln. His idea of forensic strategy was to concentrate on the one big thing, the vital thing, and to let the small points take care of themselves. He contended that if the speaker makes sure the judge and jury get the one big point, they will not be able to decide against it. Certain debate subjects are well adapted to the use of this system; all are not. It is a favorite plan with negative teams. If concentration can be had upon some one vital weakness in an affirmative proposal and this weakness cannot be explained away or overcome, the negative is almost certain of victory. Quite often this plan of debate is aided or disguised by having the first speaker on the negative point out in rapid succession the conventional or the minor objections to the affirmative proposition. This is done with the hope that the affirmative will waste time in answering them, thus robbing themselves of time which should be given to the rebuttal of the big point in the negative argument. In case the affirmative fails to be misled by the minor point device, the audience is carefully reminded that these objections have not as yet been met. The affirmative is then as a rule forced to waste valuable time in the last rebuttal speeches in answering them or must run the risk of losing because they did not cover the ground. In cases where the one big point is combined with the element of surprise it is doubly effective. Oftentimes



a point thus singled out for special attention receives an emphasis because of this strategy which its opponents are totally unprepared to meet. Debates have been won by this system on sheer bluff, when the one point hammered upon was not in reality so important or vital as represented. This of course requires skilful work. When, however, a question is unevenly stated and the negative finds itself supporting the weak side of the question, we may safely say that such a strategy is justifiable.

A second type of the one-point debate, another negative type, is one which for want of a name I have called "the sneak lead." It is characterized from the beginning by a policy of admission. The affirmative argument is practically appropriated by admissions and acceptances up to the point of difference between two plans or solutions. This difference consists in just one vital or important thing. The rest of the affirmative plan, to say nothing of the argument for it which preceded, is stolen, brazenly stolen. This "grand larceny" method can be used quite effectively in some questions, for instance, the substitution of the United States Monetary Commission's report or the Aldrich reserve plan for a central bank, the substitution of federal license for the federal charter in dealing with corporations, the substitution of a flat rate income tax for a graduated income tax, etc. This style of debating is quite popular at some institutions, but at most institutions is looked down upon as contemptible and lacking in the spirit of gameness and fairness. That it is a method to be feared

is evidenced by the fact that the Central Debating Circuit in its debates last year stated explicitly in addenda to the proposition for debate, the federal charter for corporations engaged in interstate commerce, that federal license was not to be used as a substitute plan. In debating the same subject Carleton and Ripon colleges, although not actually excluding the federal license in a statement of the question, both avoided it in their negative debates as unworthy of their consideration. Many other colleges in the same class would have done the same thing.

In addition to these three plans of debate the strategy of debating includes a number of special policies or strategies which may be used in any one of the three plans outlined above. They should be mentioned here but considerations of space prevent comment on them to any great extent. They are namely: The policy of admission, an excellent device when not overworked, as it seems fair minded. The policy of asking questions—pointed or catchy ones—must be backed up by demands for answers. The policy of assumption, presuming that opponents will grant certain things or must grant them, may be followed by the drawing of unforeseen inferences damaging or destructive to the position of opponents. Another assumption is that of drawing conclusions or claiming the proof of a proposition on insufficient evidence. The policy of dodging questions and issues (begging the question) especially when such issues and questions are fraught with danger to the side. This is done by talking about something else, and it is

surprising how often this ruse works successfully. The policy of enforcing the strong points on the side by re-statement and by having the speakers support one another's contentions. This is a good plan when the argument restated is a strong one; also a debate seems more compact when the speakers back up one another and continue the arguments. Some institutions have carried this policy successfully into rebuttal where each speaker restates and supports his own constructive work, but rebuttal is supposed to contain answers to opponents as well as restatements, so this strategy can be carried too far and give rise to the suspicion that the rebuttal is committed. The policy of comparison and contrast, a good device where plans are opposed. The policy of summarizing, as the summary draws all the main contentions together and keeps them before the audience. Sometimes each speaker sums up the work of his colleague or colleagues preceding; sometimes he sums up the work of opponents, artfully minimizing and detracting from its value and importance; and sometimes just one speaker does the summarizing work and gives an entire speech to it, weighing carefully the evidence of each side but taking care to vanquish the opposing contentions. The conventional place for such a summary is in the third or closing rebuttal speech. It is sometimes good strategy if one of the speakers is weak in extempore work to give him the summary in the first rebuttal and let him prepare it beforehand. The policy of misrepresentation, a policy for which there is no excuse as it is dishonorable. Common honesty re-

quires that an opponent's argument be restated correctly in any attempt to minimize its effect or importance, and that a debater's own evidence be offered in good faith. The policy of challenging or defying opponents to meet certain arguments. Some debaters carry this pugilistic method so far as to advance toward their opponents and shake their fists dangerously near the proverbial "nose." The effectiveness of this show of spirit is doubtful, but it adds to the combativeness of debate and pleases a certain type of judges. Yet, on the other hand, many judges resent any prescribing of what opponents must do, and dislike the bellicose and belligerent attitude. The policy of quoting freely or of using "authorities" is an almost unquestioned device. It can be overworked, and is abused when private correspondence and telegrams are dragged into the debate. Quite often this class of evidence is ruled out by agreement. The policy of appealing to the love of the concrete is seen when charts, etc., are introduced. Occasionally this is a very effective thing, but in some debate agreements it is ruled out. There are doubtless a number of other special strategies which have been overlooked, but this is enough to give some impression of the variety of address, of the maneuvering possible no matter which plan or system of debate is followed.

#### INNOVATIONS IN DEBATE

During the last school year a number of innovations were noticeable in debating. The first is that of holding preliminary or practice debates with other institutions

in order to try out teams and the subject before the regular triangular or league meet with the "dearest" rivals. Cornell University was probably the first school to begin this kind of an arrangement. For a number of years Cornell has been increasing the number of its debates on a given subject by holding contests with Colgate, Union, Rochester, and other institutions before its regular triangular with Columbia and Pennsylvania universities. Cornell had the advantage of studying the arguments, methods, and points of view which were put up in opposition to her teams before deciding upon her line of action against her chief rivals. Also considerable light was thrown upon the weaknesses and strong points of her own debaters and arguments. There is a sort of parallel to a Harvard or Yale football season in this procedure. Cornell has been frequently defeated by the smaller schools, but this is of course only incidental to the training plan pursued. Other institutions are now taking up the innovation and this accounts for the increase in the number of debates at some colleges and universities. This method is an excellent one for developing debaters at the large universities which do not have many local debates. There is one risk to run in this method when the same subject is used, and that is that an opponent to be met later may spy upon the work of the rival institution. Of course this is a dishonorable thing to do, but many debaters have not stopped to consider this in their eagerness to get ahead of their opponents. The custom of spying upon a rival

football team has had its influence in quashing any qualms of conscience the debater might have had.

A second innovation, and it has its parallel in the athletic world, is the "trip." To the University of Denver belongs the credit for introducing this new idea. A team was sent east to meet Ottawa University and William Jewell College with but a day's rest between the two debates. They had, of course, arranged for the same side in each debate and used the same speeches. This idea seems quite practicable from a financial point of view as it breaks the expense of the visiting team and makes things easier for the entertaining institutions. If long trips are to become the vogue this idea will permit of development. And it might be added that some long trips are noticeable in last year's record, for instance, the Drake University, Iowa, and the University of Southern California dual debate.

A third innovation is noticed in the choice by several schools of a neutral place in which to hold the debate. A notable instance of this is the Johns Hopkins—University of Virginia—University of North Carolina triangular which adopted the plan of debating in each instance at the neutral school.

This triangular also introduced a fourth innovation in debating customs by inviting five judges to hear its debates. This change in procedure occurred elsewhere, however, during the year. The Nebraska Wesleyan—Washburn College—Baker University triangular adopted the policy of inviting judges for each contest from the

neutral school in the organization, and this although it pertains to judges is practically a second innovation concerning them. A similar custom, that of having a neutral school submit the list of judges for a debate between two other institutions, was begun by the Central Debating Circuit (Pentangular) some time ago, and this idea is also making headway. At this point it might be well to call attention to the debate agreements and contracts printed in Appendix IV, as various methods of conducting debates are outlined there, and valuable hints may be gained for future debates.

#### TENDENCIES IN DEBATING

Of the innovations just mentioned the first two are concerned with an increase in the number of debates, a tendency of the past year previously discussed under the division, Progress of Debating. The remaining innovations are concerned with an improvement in the conduct of debates. A tendency or disposition to improve the methods of conducting debates is a commendable thing. As indicated here the desire is to insure fairer results in the decision, and the idea is to gain it by the introduction of the neutral element—neutral place for the debate, neutral submission of judge lists, and increase in the number of judges. This tendency toward unquestionable fair play rather than a plotting or scheming to gain the advantage is a significant and noteworthy thing. All friends of debating will welcome any signs of change which tend to improve it as an intercollegiate activity and make it more sportsmanlike.

Another tendency is that toward smaller debating leagues. During the year just passed one of the pentangular leagues disbanded. Two new triangulars were the result. Also one of the two remaining quadrangulars disbanded, resulting in a triangular and a dual arrangement. Also the many proposed pentangulars have all failed to materialize. This disbandment and inability to launch large leagues is caused no doubt by the difficulty of keeping a large number of institutions in the perfect accord necessary for such organizations. The smaller league has proved more practicable as the large number of triangulars will testify. Another thing supports this inference and that is the increasing number and the popularity of the dual leagues or agreements. Dual debating has made a greater advance during the year than any other form of debating. This is not surprising, for two schools can more easily adjust their plans for debate arrangements than three can. Then again the dual debate preserves all the advantages which have made the triangular form popular as it gives each school two teams, one on each side of the question, and gives each institution a debate on the same evening. In fact the dual debate is a natural development from the triangular form in the movement toward the final thing in the reduction of the number of schools in an agreement. The dual debate originated a few years ago when the third member of a triangular arrangement dropped out and left the two remaining schools each with a team on each side of the question to oppose each other or give up the debates for the year. They naturally met



each other. The dual plan proving successful, it was immediately taken up by many schools which were meeting each other in annual debate, so the dual form began to gain from the other side, until now, it is quite an important debate arrangement as a glance at the year's record will show.

A third tendency of debating which is quite marked in the record of the last year is the search for new subjects and questions. A comparison of the table given in Appendix III with the tables given under the same heading in Volumes II and III *Intercollegiate Debates* will show that there has been quite a change in debate subjects. The range is wider now; new subjects have come under discussion and old favorites have passed and for various reasons. The passion is not for "new" subjects merely because they are new, although novelty is in their favor. The debater wishes to obtain subjects that are of public interest, that have two sides to them, that are capable of being decided, that will be at some time decided. Subjects of this kind give debaters the feeling that they are studying something worth while, something that is educational, and about which they may by good fortune discover some new ideas. Those theoretical individuals who talk about the foolishness of allowing college students to debate on big questions and important policies of government, and who fear that the college student may get the impression that such problems may be solved in three twelve-minute addresses, simply do not understand college students or the principles of debating. The foolishness consists in the sug-

gestion that college students debate such trivial subjects as the merits of the spit ball, the advisability of reform spelling in the college paper, etc. The college student would as lief wrangle over whether it is better to use tape or slacked lime in marking off a tennis court. The problem of what is to be debated might better be left to the debaters or to those who are in touch with student life rather than with editorial writers for the *New York Nation*. The popularity of debating lies in part in the fact that it offers the student an opportunity to study economic, social and political questions, and why should a student be prevented from enjoying such a study? He must surely make a beginning in such studies if he is ever to become a capable citizen. A sure way to kill debating would be to limit the debaters to subjects pertaining to college life "about which they might be expected to talk intelligently," for this robs the speaker of exploration in new fields, it inhibits growth, it atrophies his intellectual curiosity, the very thing the teacher bends every effort to arouse. Surely the significance of all this should be apparent to writers capable of contributing to the *New York Nation*.

#### DEBATING SUBJECTS

It is noticeable that some debating subjects have died during the past year. The federal income tax (which by the way follows closely the plans and ideas of college debates on the subject), the popular election of senators, and the central bank are now barred from the realm of debating because they are settled. The college debater

loses interest in a discussion which has produced its desired end. It may be objected that the central bank is still a live issue, but the difficulty of debating it when it is absolutely bound up in a currency bill before Congress is apparent. Although popular as a debate subject last year, it will doubtless be almost completely abandoned this coming year. The passage of the tariff bill has taken some zest out of the tariff debates but does not disqualify this subject.

Among the new subjects which have come in during the past year, those of the Panama Canal toll, the six-year term for the president, and the recall of judicial decisions have been most popular. Other new subjects such as cabinet officers in Congress, the German plans of accident and old-age insurance, and the advisability of finding an easier method of amending the federal constitution, although not quite so widely discussed are worthy of mention. For the coming year the Mexican situation holds possibilities for early debates. Many old favorites will undoubtedly be revived during the coming year if the tendency of last year continues, among them the regulation of immigration, municipal ownership of public utilities, the commission form of municipal government, and compulsory arbitration of industrial disputes.

A study of the debate record in Appendix II will show local popularity and trends in a very interesting manner. For instance, in Ohio debating efforts were practically confined to the commission form of municipal government last year, a preserving, or rather a

revival of interest in this waning subject. The minimum wage subject, comparatively new, was a local rather than a national favorite last year, but if the trend toward industrial subjects continues it will probably extend its territorial influence. Local needs and conditions are quite potent in determining the choice of questions. The Pacific coast institutions avoid the initiative, referendum, and recall subjects as they are hardly regarded as debatable in western states any longer. The natural prejudices of the audiences would prevent a fair hearing for the negative of these questions. The same thing is true of woman suffrage, the minimum wage, and almost any other subject which may be grouped under the term "progressive." The institutions of the West are then compelled to fall back upon old questions, such as the immigration discussion, capital punishment, etc., or they must forge new propositions. On the Pacific coast the proposition of endowing the newspapers was discussed last year; the Panama Canal toll question was seized eagerly; the changes to be rung upon conservation were followed out patiently, the state income tax was discussed; and this coming year a federal blue sky law and the proposition of abolishing the United States Senate are ushered in to join the ranks of new questions. The South is an eager follower of new questions, and also shows a fondness for governmental and political questions, such as states rights, an easier method of amending the Federal Constitution, etc. The first debate on the Mexican situation was held at a southern school. It is in the East

and the Middle West, however, that the more normal conditions in debating obtain, and it is here that the more representative work is done.

In concluding this random discussion allow me to dodge a summary and to leave out several pages of graceful (?) comment prepared in answer to a somewhat aimless criticism of college debating given wide publicity in the weekly magazines some few weeks ago, for I have already exceeded the correct amount of space for an introduction and feel that I should straightway bow myself out.

# **CABINET OFFICERS IN CONGRESS**



# **CABINET OFFICERS IN CONGRESS**

## ***PRINCETON FRESHMEN vs. HARVARD AND YALE FRESHMEN***

The Freshmen teams of Princeton University defeated the Freshmen teams of Harvard and Yale universities in the annual debates held May 2, 1913, thus winning the championship of the league for the college year. Intercollegiate class teams are quite common in the debating world at the present time, and the following debates are representative of the freshman class of work. The Princeton-Harvard-Yale triangular took up the discussion of a question comparatively new to the college debating world, but recently agitated mildly in political circles.

The question discussed was, "Resolved, That members of the President's cabinet should have seats and a voice in discussions in both houses of congress."

The following speeches were contributed in behalf of the debaters by Mr. H. F. Covington, Professor of Public Speaking and Debate at Princeton University.





# CABINET OFFICERS IN CONGRESS

## *PRINCETON FRESHMEN vs. HARVARD FRESHMEN*

FIRST AFFIRMATIVE, B. B. ATTERBURY, PRINCETON, '16

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The supreme test of the modern institution is its efficiency. It is on this practical basis that we of the affirmative ground our case. Our proposition is offered to increase the efficiency of the national administration. The reform we propose is no new idea. It has on several occasions been considered by Congress, each time with increasing approval. It is significant that the first bill was presented in 1864 when the Civil War had shown the inadequacy of the present system in affording communication between the departments. The measure was again brought up in 1881, and was reported unanimously by a committee including Senators Pendleton, Voorhees, and James G. Blaine. I have in my hand a third bill introduced in Congress on April 7, 1913, by Ex-Governor Montague of Virginia. This bill which is identical with the earlier measures of '64 and '81, provides, first, that the cabinet members be given a seat in both houses of Congress with the privilege of entering dis-

cussions upon the affairs of their own departments; and second, that they be present at the opening of the session two days each week in the Senate and two in the lower house to answer questions and give information—these provisions to be subject to the approval of Congress in accordance with Article I, Section 5, of the Constitution which states that “Each house may determine the rules of its proceedings.”

This, then, is the proposition which we of the affirmative support—a proposition which seeks, not to change, but to strengthen our present form of government. We are advocating this principle of coöperation between departments, not because it is a feature of foreign political systems, but because it should be a feature of every system, and may be a feature of ours without attacking either the letter or the spirit of the constitution. The very men who drafted the constitution realized this. For, it was evidently the intention of the founders to have a closer connection between the legislature and the executive than exists at present. Article II, Section 3, of the constitution reads: “The president shall from time to time give to the congress information of the state of the union, and shall recommend to their consideration such measures as he shall judge necessary and expedient.”

The constitution, then, expressly gives the executive department the privilege of proposing definite measures. The first two presidents delivered these messages to congress in person, a custom which President Wilson has re-established with the approval of the nation. But

many chief executives have failed to make full use of this permission to recommend measures. As Professor Burgess of Columbia says in his *Constitutional Law*: "That these recommendations are not more often presented is simply because there exist in Congress no executive organs for explaining, defending, and in general, managing such governmental bills." Admitting the cabinet members to Congress, then, will make this clause of the constitution effective, will give the President that share in advising legislation which is rightfully his by the terms of the constitution.

At first the secretaries, too, were in far closer touch with Congress than at present. Indeed, until 1795 when the Ways and Means Committee was established, the Secretary of the Treasury was entrusted with the drawing up of all financial bills, and these measures he was to bring before Congress either orally or in writing as the House might direct. This coöperation, then, was desired by the founders of our government and is more in harmony with their original intention than is the present isolation of the departments.

There is in the popular mind an erroneous idea of the relations between the three great departments. We blindly worship this system of checks and balances without clearly understanding its meaning. The reason for the separation of the departments is to prevent the tyranny of any one over the other two. But this idea has been carried to such length that it has become a check, not upon the aggression, but upon effective legislation. As Madison says in the *Federalist* in discussing Mon-

tesquieu's theory of the independence of the departments—the theory which was incorporated into our constitution: “He did not mean that the departments should have no partial agency in the acts of each other. His meaning can amount to no more than this, that where the whole power of one department is exercised by the same hands which possess the whole power of another department, the fundamental principles of a free constitution are subverted.”

According to Madison, then, one department may safely have a partial agency in the acts of another department, and this is all that is advocated in the proposition of the affirmative. Moreover, the real check to which our fathers looked and which has become the cornerstone of our system is the Judiciary Department. As long as the judiciary is independent it is impossible for either Congress or the President to step beyond constitutional bounds. Therefore, the real purpose of the check and balance system, the safe-guarding of constitutional liberty is not affected by a measure which neither gives one department control of another nor endangers the independence of the judiciary. The reform we advocate gives the executive merely the power to advise and to confer; it gives no new power to the legislature; while it leaves the judiciary ready as ever to resist aggression on the part of either.

During the last hundred years, in our desire to keep the departments independent, we have gone too far—farther than Madison or Montesquieu, himself, considered necessary, and every step in this direction has been

at the cost of coöperation and efficiency. The other nations of the world have come to realize this. Except in the countries of the American continents south of Canada, the idea of isolated departments is now extinct. Everywhere else in the world the principle upon which constitutional government is founded is the connection of the executive and the legislature, and not their separation. Even in this hemisphere, Argentina, the most stable of the southern republics, has adopted a constitution providing for closer communication between the departments.

Now in the United States, the departments are almost completely separate in theory. But we, like other nations, have come to realize that a government can not be effective except with coöperation of the legislature and the executive, with the coöperation of the branch which enacts the laws and the branch which enforces them. Since with the exception of formal written reports through the president, our government makes no provision for this communication, we have been forced to resort to makeshifts and indirection. At present the intercourse between the departments passes along two irregular and extra-legal channels.

In the first place, cabinet officers frequently appear before congressional committees. In the recent administration, Secretary Knox paid several visits to the Senate Committee on Foreign Affairs. The chairman admitted the value of these visits and declared himself in favor of more open and direct communication between the departments, for the present system at best

is unsatisfactory since the secretary can not demand an audience when the committee is unwilling to receive him, and the committee has full power to suppress information, leaving Congress and the people none the wiser.

In the second place the executive department frequently confers with individual members of Congress. In 1837, Richard Fletcher, a member of the House Ways and Means Committee, said in a speech in Faneuil Hall: "The chairman of the committee receives from President Jackson or the Secretary of the Treasury such bills as they wish to have passed by the House. Without examination the chairman takes them to the committee. They are presented to the House and received as the doings of the committee." This is the case under a strong president. If the chief executive is weak, Congress, of course, swings to the opposite extreme and ignores his advice altogether. In the diary of President Polk we read that he designated certain cabinet members to see certain Congressmen and persuade them to vote for the admission of California. During the administration of President Pierce, Mrs. Jefferson Davis says that the time of the secretaries was spent in privately entertaining Congressmen to whom they must explain the needs and the wishes of the executive department.

In theory, then, the system of checks and balances provides for the separation of the departments. In practice, however, we have evaded the system in these two extra-legal ways. Experience has shown that there must be communication between the executive and the

legislature. It is merely a question of method. Shall we have open and direct communication on the floor of Congress? Or shall we permit it in the present secret and indirect form which can not fail to create between the departments friction rather than harmony, and which arouses suspicion through its very secrecy?

But we would not, on the other hand, follow the example of England in practically uniting the two departments, for so radical a step is entirely unnecessary. We have in our system of government at the present time a third method of communication, which, if extended to the cabinet members, would solve the problem without introducing a new feature into our government. Congress now receives territorial delegates and commissioners from Porto Rico and the Philippines. It refuses them the right to vote but allows them to discuss the affairs of their constituencies. This is just the privilege which the proposition of the affirmative would give to the secretaries. Our measure, therefore, is not a radical innovation; it is merely an extension of a plan now in operation in our own government. If Congress receives as advisers these territorial delegates, why should Congress refuse to receive the cabinet members who as agents of the president are representatives of the whole people?

Closer connection between the departments, then, is permitted under our constitution. It was desired by the founders of our government and has been provided in every other important political system. Its necessity is admitted by the present attempts to communicate be-



tween the departments, but these methods of communication are irregular and ineffective, while in the case of territorial delegates we have a most effective method.

In his treatise, "The State," President Wilson said: "A perfect understanding between the executive and the legislature is indispensable and no such understanding can exist in the absence of relations of full confidence and intimacy between the two branches." In the earlier days when the country was young and there were but twenty-six men in the United States Senate, such an understanding and intimacy was perhaps not difficult. But the War of 1812 increased those earlier problems, which with the questions of territorial expansion, the tariff, and internal improvements, culminated in legislation which was too often local, sectional, and personal, rather than national. To-day we have a senate approaching a hundred members and a Congress four times as large, attempting to deal through committees with great industrial, commercial, and international problems which affect the life and welfare of all our citizens. The president, who is the representative of the whole people, and who is now elected because of his support of certain principles of broad and national policy, has no adequate channel for effective communication with the law-making body, has no certain and definite contact for the moulding of legislation at every step of its progress.

This contact would be afforded in an increased degree by the adoption of a statute along the lines of our proposition. Our plan does not in the slightest inter-

fere with the legislative function, for it carries with it no right to vote. It can not even be obstructive since either legislative body can prevent obstruction through its control of its own rules. Its effect must be closer union and intimacy, increased coöperation, and heightened efficiency.

SECOND AFFIRMATIVE, C. S. TIPPETS, PRINCETON, '16

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: So far in the discussion to-night, the affirmative has argued that the members of the president's cabinet should have seats and voices in the discussions of both houses of Congress because the change is clearly in agreement with the spirit and letter of the constitution; because it is in direct accord with our American system of government; because it is not a radical change; because it would result in greater coöperation between the important branches of government; and, because it is more necessary to-day than ever before to have coöperation because of the rise of national policies, broad in scope and affecting deeply the life of every American citizen.

I shall argue further that the change will result in greater publicity in the workings of Congress and the executive department. If there is anything that is intolerable to a nation of free people it is to feel that they do not know what is being done by the men who are supposed to govern them. My colleague has cited to you quotations from the diaries of President Polk and Mrs. Jefferson Davis to show one method which the cabinet

officers must now avail themselves of in order to get important legislation passed. Permit me to quote from Justice Story, who says in Section 869 of his commentaries on the constitution, "The executive is compelled to resort to secret and unseen influences, to private interviews and private arrangements, to accomplish its own purposes, instead of proposing and sustaining its own duties and measures in bold and manly appeal to the nation in the face of its representatives." Now the real danger comes when influence is at work in secret, when it assumes no definite shape, when it guides with silent sway under the form of public opinion, or disguises itself as independent legislation. Now we do not mean to say that because this influence is secret it is at all times corrupt and pernicious, but it may be so; and, wherever opportunity for corruption exists, there will be, there ought to be, suspicion and distrust.

There is, then, no regular, authorized, official channel of communication between Congress and the executive department, except the message of the president, the report of the secretary of the treasury, and an occasional written statement from the other departments. It is true that the president, of his own volition, includes with his message to Congress the reports and recommendations of the secretaries. But this method lacks completeness and has become so insufficient that the secret influence has crept in. The Pendleton Bills in 1864 and 1881 would have provided this channel of communication if either had been passed. The committee which reported unanimously in favor of the meas-

ure of 1881 said in these words, "The committee rests its convictions upon two propositions, first, that it is the duty of Congress to avail itself of the best possible means of information in relation to the measures of legislation on which it may be called to act; second, that the influence of the executive department upon the legislative, whatever it may be, ought to be open, declared, and authorized instead of secret, concealed, and unauthorized." The committee also said, "It has been notorious for years that by personal interviews with members, by private conversation at the office, in social intercourse and at casual meetings, by verbal statements to the chairmen of committees—liable always to be misunderstood and misrepresented—, by unofficial communication to the committees themselves, these officers originate, press forward, modify, or entirely defeat measures of legislation, and it has often happened that the rules of the House have been violated by stating what has occurred in committee in order to convey to the members the opinions and wishes of the secretary."

In the face of this testimony let me ask you—would it not be better if the opinions of the cabinet officers were expressed, their facts stated, their acts defended in open day upon the floor of Congress? Would it not be better for them to explain their stand before the nation, in public speech, where there can be no hidden purpose and no misrepresentation?

Now, not only will there be less secrecy in the movements of the executive department, but there will be less secrecy in the action of Congress itself. The peo-

ple of the country are tired of trying to understand the methods of legislation and are clamoring for a more complete knowledge. Each part of the government loses force and prestige in proportion as it ceases to give, and to give publicly, conclusive reasons for what it is doing and is declining to do. Open counsel is the essence of power, if the country's confidence is to be retained for any length of time. This open counsel is lacking in both houses of Congress. The lower house has become simply a semblance of an effective, business-like board of directors. It has forfeited the much higher office of gathering the common council of the nation and wielding the tremendous, the governing and sovereign, power of criticism. Criticism can make and unmake policies of government but the conferences of committee rooms cannot. If the house must maintain its present attitude it cannot be the voice of the nation. It goes without saying that the combined acts of a session are not a product of common counsel of executive and legislative, but of a thousand other agencies. They have not been threshed out in the presence of the country, but behind closed doors. The presence of the cabinet officers would provide this common counsel, and abolish the excuse for much of the committee room secrecy.

But the gentlemen may argue that we cannot do away with this secrecy in the committee rooms; that publicity will not result. Let me ask—what was the cause for the growth of this secret influence? It was the rise of provincialism, log-rolling, self-interest, and also the necessity for closer means of communication between the

departments. When the cabinet officers come upon the floor of Congress, they will no longer tell their wants to the small body of men in the committee room alone, but will tell them to the whole Congress, where by published report the whole country will know what is said. In such a procedure the secret reasons for or against legislation will have little effect.

But again, we may be told that the committee system is the only way to get information rightly. Now the affirmative does not want to abolish the committee system. We realize how important a part of our government it is. But we do want to curtail the absolute power of the committees to withhold information from the whole of Congress. Again, it is very difficult sometimes to get information from the heads of departments in the indirect committee method, and by written message alone. The cabinet officers do not feel the weight of publicity, and must occasionally be compelled to give up information by congressional action. At times when information is not forthcoming the committees cannot do their work well, and the houses must act in the dark. We simply ask that the members of the cabinet give their information to the entire body in the light of publicity and responsibility.

The gentlemen tell us that inasmuch as the greater part of the work is done in the secrecy of the committee rooms, that there would again be no chance for publicity. But they forget that the bill must eventually come before Congress. The discussion of the bill before it is acted upon will bring out the facts and the various

opinions. Congress will have the advantage of the committee report and the direct advice of the cabinet at the same time. This will enlighten the house, inform the country, and be just to the cabinet and the administration.

But we are again told that inasmuch as the committee has the power of life and death over the bill, that if it refused to consider the measure the cabinet could only get it before Congress again by the method of secret influence. Nevertheless it does not follow that this is so. Let us look at the conditions for a moment and we shall find that the party leader can call the bill from the committee any time that he wants to do so. Now if the president's policy is so important that he feels that this bill should be acted upon and tells Congress so, through his agents, the cabinet, the party leader, and likewise the committee, will have a hard time explaining to the country why the bill was not brought out. They will be obliged to present an excellent reason. The president, then, with the cabinet members in Congress will have added power to invoke publicity in important legislation. Let me summarize our proposition again. We do not wish to substitute our plan for the committee system, we mean simply to supplement the committee system with a legitimate mode of communication between Congress and the executive department where now an illegitimate one prevails, and in so doing to establish greater publicity.

Now in the second place, by giving the cabinet officers seats and a voice in the discussions of both houses of Congress the people can locate responsibility for legisla-

tion. Under the present system where can you place responsibility for a certain act? You cannot hold Congress responsible because it has not the time to look into the merits of two thousand bills and has entrusted this business to committees. The committees can not be held responsible because it is Congress and not the committees which pass the bill. Surely the executive is not to be held responsible for laws which it had no part in making. Clearly then, either no one is responsible, or the responsibility is so divided up that the location of a single part of it becomes a practical impossibility. The truth of the matter is that a great part of the blame falls upon the president, the head of the administration, and it does not properly belong there. This indefinite, divided responsibility has been, veterans in Washington say, the reason why so much of the legislation is local, special, and unsatisfactory; why friction between members of Congress, and between the departments and Congress is more common than harmony. Under our present system if the president has a policy which he is determined to carry out he is accused of coercion, of overstepping the limits of his office. His firmness and determination often arouse the opposition of members of his party who must be driven to do what he wants. At the same time they try to persuade the country that he is unworthy of further confidence. If, on the other hand, the president is a weak or amiable man, who does not want to fight, who wants to be on good terms with everybody, and who yields to Congress, the country turns on the president, the sins of Congress are laid at his door, and it is



almost impossible for him to escape being made a sacrifice.

Now when we have greater publicity the country can locate responsibility at once. The people will know the stand of the president through the attitude of the cabinet officers in Congress. Whatever they said would be official, and would have as much weight as if the president had said it. The discussion upon the floor would bring out the attitude of the two branches of Congress. If a bill was introduced, passed, or defeated the people would know who sanctioned it, who opposed it, and whom to settle with.

Along with this location of responsibility will come sounder party and popular government. Such government is necessary, for administration must be vested in a body of men who work together and have the interests of the people at heart. Burke says, "No men can act with effect who do not act in concert; no men can act in concert who do not act in confidence; and no men can act with confidence who are not bound together by common opinions, common affections, and common interests." The president is the head of the nation, one of the leaders of his party, and also the leader of the majority of the people. There are leaders in Congress, it is true, but Congress, you must remember, has no definite policy. The president is the only one who determines policies, and the people look to him to carry them out. There must be some open, responsible connection between him and his party in Congress. He must have the complete confidence of the men in whom his party

places confidence or otherwise he must consent to be quite impotent during his four years. Since the president expresses the will of the whole people, he is the only direct representative of the people in the matter of a broad policy, hence the cabinet officers as his agents should be allowed the privileges of the floor of Congress to explain and defend this policy.

In conclusion permit me to quote President Wilson, who says, "The degree of separation now existing between the executive and legislative branches cannot be long preserved without very serious inconvenience resulting. Congress and the president now treat each other as almost separate governments, so jealous is each of its prerogatives. We risk every degree of friction and disharmony rather than hazard the independence of branches each of which is hopeless without the other. What we need is harmonious, consistent party government instead of a wide dispersion of function and responsibility. We can get it only by connecting the president as closely as may be with his party in Congress. The natural connecting link is the cabinet."

THIRD AFFIRMATIVE, S. L. PHRANER, PRINCETON, '16

We believe in the proposed measure to give the cabinet members seats in both houses of Congress and a voice in discussions, for it will afford a much needed and valuable machinery for expressing the will of the people by the president, and the will of the majority of his party so far as he is their leader, at the time of the bill's final passage. We believe that this measure will give a more

efficient opportunity for the wishes of the people to be expressed, a more efficient opportunity for the president to make known those wishes; a more adequate information to the Congress; a more definite appreciation on the part of the people of the advantages and disadvantages of the measures they have favored; and, finally, a more definite responsibility in both the executive and legislative branches of government, with a chastened publicity and an augmented governmental efficiency.

It is not a substitute for, but a supplement to our present committee system, and it is thoroughly compatible with our congressional form of government, for, it does not disturb in the slightest particular either the legislative or the executive constitutional powers, but affords a closer communication between these departments. The importance and gravity of the great modern problems demand that the legislative and executive departments should be brought into a more perfect union. We are not attempting here to build a new edifice on foundations which are foreign to American life and conditions. We are rather attempting to preserve the arch which must unite the legislative and executive branches of government, by strengthening and making firmer the keystone which must hold that arch together.

As our national institutions have developed, ever tending to a separation of the legislative and executive, there has also resulted with this lack of coöperation, a lack of efficiency. No better proof of this can be had than that which is to be found by turning back the pages of our civil history and noting the instances where this lack of

coöperation actually has proved disastrous. Conspicuous among those examples was the situation in the House of Representatives during the session of 1860. It was, at that time, essential for the preservation of the Union that Congress should have certain information concerning the sale of arms and the removal of guns and ammunition. This information was in the hands of the executive department. Nor was Congress able to secure it in time to put it into effectual use, simply because of the lack of a free and open intercourse between Congress and the executive and so much delay was caused, that, when finally the information was transmitted to Congress through the efforts of a committee, it was too late. This is but one of a number of instances where it has been absolutely necessary for the highest efficiency of our government that there be this more open and direct means of communication between the departments.

A similar difficulty was experienced in connection with the Philippines during the war there. It was almost impossible to find out what was going on. Resolutions of inquiry were drawn up, but such resolutions often avail little. The secretary inquired of may send back a batch of documents requiring endless labor to analyze, and sometimes confusing the issue; or he may decline all information on the ground that it is against public policy, if he finds it hard to explain what the public policy is.

No less numerous are the instances where the executive itself has been seriously handicapped because of the inability of a member of the cabinet to address Congress in person from the floor. For example, take the finan-

cial crisis of 1893 and '94. Mr. Carlisle, the secretary of the treasury in Cleveland's administration, pointed out in his annual report of December 19, 1893, the heavy deficit in current revenue, and the fact that, except for the depleted gold reserve, the Treasury's accumulated surplus was almost exhausted. He asked Congress to authorize a bond issue the proceeds of which the Treasury might draw upon to supply future deficiencies in revenue. Carlisle waited for an answer. None came. Congress completely ignored the report, burying it in a hostile committee. In January, 1894, the government approached nearer to actual bankruptcy than at any time in the present generation. Still Carlisle was forced to wait for the power which he thought Congress alone should give, until finally, he was driven, against his conscience, to order the bond issue himself. Surely no better example can be found of the possible inadequacy of the written report alone. Carlisle sent his report to Congress, but that report resting in the hands of a hostile committee was as useless as if it had never been written. Does the negative mean to say that this embarrassing situation would not have been prevented if Carlisle had been able to present to Congress in person, from the floor, an account of the country's need? We believe therefore that this slight adjustment of influence is not only necessary and desirable, but also that it will aid in accomplishing the ends in view, namely, coöperation, publicity, responsibility, and efficiency.

But turn now from the inefficiency of our present system to the remedy which the proposal of the affirmative

affords. By giving the members of the cabinet seats and a voice in the discussion on the floor of Congress, both the legislature and executive would be affected in such a way that the fulfillment of the purposes for which each is intended would be far more definitely insured. In the first place, the departments would be more efficiently conducted, because of necessity the cabinet members themselves would have to be strong representatives of the people. While such may have been the policy of President Wilson in making his appointments, there is nothing to prevent a President from surrounding himself with men of inferior ability; whereas, under the proposed measure the days of weak cabinets would be gone. The cabinet members of future administrations would have to be more than respectable private gentlemen. They would have to be experienced statesmen; men of such executive and legislative calibre that they could stand upon the floor of Congress and give an account of themselves and their departments. If the heads of departments were given the privilege of speaking on the floor of Congress, weak men would shrink from the responsibility of the position, the crafty politician would soon be exposed, while the strong leader would be encouraged in the efficient administration of his department.

On the other hand, wiser and more adequate legislation would be insured by the proposed measure. President Butler of Columbia University says in speaking of progress in politics: "We have now had a long experience with the sharp separation of the executive and legislative powers, and that this separation has some dis-

advantages is certain. Our governmental policies too often lack continuity and coherence because of it. In many ways the effectiveness and economy of the national government suffer severely owing to the fact that so often the executive and legislative act at cross purposes, or on insufficient and inaccurate information, or from a misunderstanding of the motives of each."

Under the proposed measure legislation would be unified. Owing to the wide scope of many measures, such as the Interstate Commerce act of 1909, bills are often split up and parts assigned to three or four different committees. Naturally, when such a bill is returned from the committees, much of its original unity is gone. If before the bill is put to a vote, some one who is familiar with all its phases could bring together all the loose ends left by the committees and present the bill to Congress in its entirety, it would be more comprehensible to the Congressmen. Legislation would thus be unified, for, instead of having complicated bills merely presented in sections by various committees, the heads of the departments, who alone are familiar with the bill as a whole would be on the floor to show the relation of one part of the bill to another, and the relation of the whole to the public interest.

The cabinet officers would also act as representatives of the whole nation, being the agents of the president who is elected by the country at large. At present bills are not often enough viewed from the standpoint of the general welfare of the whole country. Every senator and member of the House represents some particular

section and is responsible only to that locality. Now while the adoption of the proposed measure would not entirely wipe out this sectional attitude it would greatly diminish its evil results. For, it would apply to every scheme brought forward the touchstone of its relation to the general public interest represented by a national official, deriving his authority through the president from the whole people.

But, besides giving this continuity and coherence to legislation the proposed measure would have a decidedly beneficial effect upon the economical side of our government, both as regards time and money. Many a long and useless speech that now extends over pages of the Congressional Record would be saved if a cabinet official were at hand to offer a definite statement of fact concerning the policy of the administration. This was particularly true in the administration of President Cleveland, who vetoed more bills than any other executive. Had Congress been informed at frequent intervals concerning the exact position of the administration in regard to certain bills, much time would have been saved and the administration itself would have been more effective.

In connection with the financial side of this controversy we naturally think of the woefully needed and long demanded national budget. Obviously the control of government funds must be in the hands of Congress, but it is the executive alone who knows how and where these funds should be expended. Realizing this, it is perfectly clear that unless there be a closer and more in-



timate means of communication between the executive and Congress than is afforded by the written report and committee system, I say unless there be a closer relation, the introduction into our government of a national budget would be far from effective. For, there would arise continually complex situations such as the relation of ways and means to appropriations which could only be settled by a free and open interchange of views on the floor of Congress.

Moreover, says President Wilson in "The State" (p. 546): "In all other modern governments the heads of the administrative departments are given the right to sit in the legislative body and take part in its proceedings. The legislative and the executive are thus associated in such a way that the ministers of state can lead the house without dictating to them, and the ministers, themselves, can be controlled without being misunderstood,—in such a way that the two parts of the government which should be most closely coördinated, the part, namely, by which the laws are made and the part by which the laws are executed, may be kept in close harmony and intimate coöperation, with the result of giving coherence to the action of one and energy to the action of the other."

Ladies and gentlemen, the affirmative bases its case on this fourfold foundation, namely, that the proposed measure will produce the necessary coöperation between the legislature and the executive, that it will promote publicity in their relations to one another, that it will locate responsibility for the actions of each, and that it

will work for the greater efficiency of our whole scheme of government, meaning better men and better laws.

*YALE FRESHMEN vs. PRINCETON FRESH-  
MEN*

FIRST NEGATIVE, W. MYRON DAVY, PRINCETON, '16

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In opening the debate for the negative, I would call your attention to the terms of the question agreed upon for discussion. The question provides that the cabinet should have seats and a voice in discussions in both houses. It confers a new legal power upon the members of the cabinet, but the terms do not specify that the cabinet shall be given votes in both houses or shall be given the right to sit in committees. This committee right already exists by courtesy and custom, but it is singular in conferring a new legal power, that the proposition does not also confer the right to sit in committees. In the second place I would call your attention to the fact that the terms of the question do not limit the subjects upon which they may speak to their own technical departments, but we may infer that it seeks to bestow upon them the full power of speech and debate possessed by the elective representatives of the people in both houses.

We of the negative are opposed to the granting of any such vague, undefined, and anomalous powers as the proposition asserts. We believe that the proposed plan is unwise and unnecessary. We say this because it is

absolutely contrary to the spirit and form of the congressional system of government and is subversive of its most fundamental principles. "Never in its history," says Hinsdale, "has any executive officer, either president or secretary, spoken in either house of Congress during legislative session. True, the president and secretaries during the first few months after the constitution went into operation spoke in the executive sessions, in secret meetings, behind closed doors. But the permission of Congress has never extended to a legislative session."

In the first place the cabinet ministers of the United States are personal appointees of the president and are responsible to him and to no one else. He appoints them and he alone can remove them. They are not elected by the people nor are they elected by the representatives of the people. No other branch of our government has the least share in choosing them, except formally to approve the choice of the executive. They are not the representatives of the people, but are the chief advisers of the president, who is the executive head of our government. They are in no sense a part of the legislative branch; says Bagehot, "The founders of the United States wisely excluded the ministers from Congress." The constitution distinctly says that the executive shall recommend and it makes its recommendations according to this constitutional privilege in published messages. The function of cabinet members in our government, therefore, does not include any more active participation in the shaping of legislation than can be afforded by the

publication of records available to Congress and which may be forcibly presented both to Congress and the country by the President of the United States, the elective head of the nation. To grant to the ministers, personal appointees, a legislative function was not contemplated originally by the framers of our government, and nothing in recent development has arisen to warrant so ill-advised a scheme. In this aspect then, the plan proposed is not only un-American, but un-democratic.

In the second place, it fails to take cognizance of the fact that the committee system is of the very essence of congressional government and has been an indispensable development or growth under American conditions.

The transaction of large and complicated questions in a large and rapidly growing legislative body cannot be accomplished with facility and with efficiency without the committees. Furthermore, there are many questions of such delicacy that they should not be subjected to a general discussion, as for example the making of treaties; the state of the army or navy in times of war, and the condition of the Treasury in periods of crises. In the handling of these questions a certain amount of secrecy is absolutely essential to their successful conclusion. The likelihood of the proposed change creating such undesirable publicity is perhaps not so great in the House as in the Senate, which ratifies all treaties and whose rules permit unlimited debate. Moreover, the persistency of the cabinet officers on some measure of policy, in long or continual speeches, might lead, not to coöperation, but to friction and irritation. Here again, the Senate, with its

unlimited debate, would be especially affected. Mr. James Bryce, writing of this phase of our congressional government, says, "The committee system sets the members of the House to a class of work, for which their previous training has fitted them much better than for either legislating or debating 'in the grand old style.' They are shrewd, keen men of business, apt for talk in committee, less apt for wide views of policy and elevated discourse in an assembly. In short we may say that under this system, the House despatches a vast amount of work and does it in a thorough way. Were the committees abolished and no other organization substituted, the work could not be done. The system is maintained because none better has been, or probably can be devised."

In the third place, the proposed plan overlooks the important consideration that the president of the United States is not merely the leader of his party, but the leader of the whole people. The president as soon as he enters into his office frees himself from the cumbersome trammels of party and becomes the champion of the nation. He is the only individual in our government who can truly be termed a representative of all the people.

Since these, then, are essential elements of congressional government, it is apparent that there must be in the minds of the gentlemen of the affirmative some feeling of imminent dangerous and impossible conditions, which cannot be relieved by any other plan than a complete revolution of principle. It is not enough for them to show that some other idea of government is theoretic-

cally better, but they must also show the practical necessity of our taking such a step at this time, and this we believe they cannot show.

Where and when has there been such a lack of co-operation between the cabinet and Congress as to defeat wise action? If so, how would it have been avoided if the proposed plan had been in operation? And we must always remember that on the theory of probabilities there is just as much likelihood to be friction as coöperation. In fact friction is more probable because of the deep-rooted belief of Congress in its own powers and its jealousy of having them interfered with.

On the other hand, we believe that the present system acts in practice in such a way as to afford desired publicity; to promote a needed coöperation, and to secure a general efficiency.

In the first place, the president, after consultation with his cabinet always has the power to communicate the policies and desires of the heads of any executive department to Congress by special messages, and this power in the last decade has been frequently used. Both Mr. Roosevelt and Mr. Taft constantly utilized the special message as a medium of communication, explanation, and recommendation to Congress and to the people. President Wilson has already written at least one special message to Congress. As a matter of fact, the special messages combined with the newspaper accounts have given the desired publicity to our government. They have afforded the executive ample and efficient means of carrying out his administrative policies. An excellent

example of this very process is seen in a recent conversation between Mr. Wilson and a senator who had served during Mr. Roosevelt's administration.

"The senators reviled Mr. Roosevelt because he compelled them to vote against their will."

"How was that?" said Mr. Wilson.

"He published his policies throughout the country in special messages. Our constituents read them, approved of them and forced us to vote for his measures."

Can the gentlemen of the affirmative offer us more efficient publicity? Moreover, we should like to ask them on just what matters they propose to have the executive give more efficient information. It is not enough for them to say that Congress and the nation will be given more adequate knowledge, but they must show some definite information which the new system will give and which the old does not. All communications from the executive branch of our government fall under two general heads, matters of administrative policy and detailed and technical reports. We have just shown how entirely adequate the special message is for handling the former, and the only method of accurately giving detailed or technical information is by the written reports now in constant use. We fail to see any application whatsoever, to which the proposed measure could be put.

In the second place, the heads of the departments are frequently and constantly in touch with the committees in the shaping of bills by reports and personal conferences. It is a known fact that the cabinet officers, either in person or by proxy are almost daily giving necessary

information and advice to the congressional committees. Both the committees and the departments have come to look upon the practice as a matter of course. In fact says Hinsdale, "It is the uniform practice of the committees of both houses of Congress, in the preparation of bills that relate to the administration of any of the departments, to submit the proposed measure to the proper department, and the executive officer's recommendation is usually respected by the committee." It was only the other day that Secretary of State Bryan held an extended meeting with the Senate Committee on Foreign Relations. After the conference Mr. Bryan said, "I have the assurance of the committee's support for the general features of my plan. The details will be made public after I have reported to the President." These few words, only recently spoken by the Secretary of State, could not have been better chosen had they been intended to support our case.

They prove first, that we already have harmony and coöperation between the legislative and executive branches. Second, that the cabinet officers are merely personal appointees of the president and responsible to him. And third, that our present congressional system affords a necessary secrecy in delicate matters of foreign relations. On the other hand, if the proposed plan had been in operation, the cabinet officers would have spoken probably upon the floor of the Senate and while the resultant publicity would have gratified the curious, it would have caused untold embarrassment to the administration, in handling such delicate questions.



These, then, being the actual and efficient working conditions of our present system, we of the negative firmly maintain that this system should not be recklessly changed. We are not blindly and stubbornly conservative, and we are not opposed to any wise progressive legislation, but we fail to see in the plan proposed that desired improvement. It is an uncertain and unprecedented scheme, either so broad as to create danger, or so narrow as to be utterly worthless. And therefore, Honorable Judges, we do not admit it as an improvement upon our American form of government, which has promoted publicity, responsibility, coöperation, and general efficiency; a system as unified in theory as it is adequate in practice. And at the outset we must ask that the affirmative, in carrying their burden of proof, shall establish the following propositions as absolutely essential to the proof of their case. They must prove, —

First, that the plan proposed is necessary.

Second, that it will accomplish the ends in view and without introducing new and greater evils.

Third, that it will accomplish these ends better than can be done in any other way.

SECOND NEGATIVE, ETHAN DAVIDSON ALYES, PRINCETON '16

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The proposition before us to-night has no precedent in history. It is a mere project, the dangers of which lie hidden. No one can tell to what it might lead, once adopted; it is a leap in the dark. But while we cannot ascertain exactly what damage this measure would

do our government, we can tell what it will not accomplish and why. My colleague has shown that our present system of legislation and administration is efficient; he has shown that we have to-day all the publicity and responsibility that is wise or necessary; he has shown, that there is no need for this measure, no exigency which demands it, no great cause which justifies it. But granting the evils which the affirmative says exist, the negative maintains that the proposed plan would not in the least remedy them, and further that it is fraught with danger.

If this measure is to have any effect at all, it will affect the legislative and executive departments of our government. The amount of this effect will be determined by the frequency of the attendance of the cabinet officers at the sessions of Congress. If they attend rarely the privilege will fall into disuse, and will be futile; if they attend regularly one of two things will happen: either they will become the masters of Congress or they will accomplish next to nothing. In either case the result will be—futility or danger.

This measure will fail to accomplish what it is designed for, in the first place, because the cabinet officers will have no greater power of impressing their policies on Congress than they have at the present time. In other words, the party pledges will be carried out no better. There are three stages in the development of every bill in Congress—its introduction, its consideration before a committee, and its final appearance before Congress for discussion, amendment, and disposition. Let us see what

would be the power of the cabinet officer in Congress in each of these three stages.

In the introduction of the bill the cabinet officer would have no power, for he cannot initiate legislation. It is distinctly stated that he is to have a voice in the discussions, and discussion cannot take place until a motion is made, or until the bill is presented. It is true that he might persuade some congressman to introduce a bill for him, but to secure this favor would he not have to use the same means he uses to-day? As soon as a bill is introduced it is read and turned over to a committee, and it is turned over without debate. Mr. Bryce in his "American Commonwealth" says, "To some one of these standing committees each and every bill is referred. Its second as well as its first reading is granted as of course, and without debate, since there would be no time to discuss the immense number of bills presented." And so we see that the cabinet officer's power of "a voice in discussion" would avail nothing here. The result is futility.

The second stage in a bill's development is its consideration before a committee. Here again the cabinet officers would have no more power than they have to-day. A cabinet officer could not be chairman or even a member of a committee. The proposition gives him no such power, and, hence, he would have no added ability to mould legislation in the most vital period of its development. At the present time under our congressional government the cabinet officer has great power in impressing his policies on Congress. Nearly every bill is referred for examination to the head of the department whose

administration it affects. The head of the department then makes a report to the committee, and his report generally, in fact without exception practically, either kills the bill in committee or is brought out with it before Congress as argument for the bill, as part of the committee's report, or as an embodiment in the preamble of the bill. Ofttimes the heads of the departments are called upon to frame bills. Hinsdale says, "When a member of the administration is regarded as the most eligible person to frame a particular measure, he will ordinarily be called upon." Then, too, the president's messages contain the whole policy of the executive department and are most powerful instruments in moulding legislation. Is this, then, not sufficient influence for the executive officers to have? If it is not, does the proposed plan give them any more? They cannot sit in committees; they have no added control there. So, again, the result is futility.

The last stage in the development of a bill is its final appearance before Congress. Here the cabinet member may enter into the discussions, if there are any, but what does this really amount to? Under congressional government, Congress is not a debating body. The real work on bills is done in the committees. It is a recognized fact that the favorable or unfavorable report of a committee determines in a large degree the vote of Congress. Mr. Bryce says, "The whole house does little more than register by its vote the conclusions which the committee submit." Moreover, by the time a bill has passed through a committee, it may have been so changed

by amendments and alterations as to be hardly recognizable as the original bill. The committees have practically supreme control over any legislation that falls into their hands. I quote again from Mr. Bryce, "The committee can amend the bill as they please and although they cannot formally extinguish it, they can practically do so by reporting adversely or by delaying to report till late in the session or by not reporting it at all. A motion may be made in the House that the committee report forthwith and the House can of course restore the bill when reported to its original form. But these expedients rarely succeed." But, supposing the cabinet member could force Congress to restore the bill to its original form, it would be the last measure favorable to him to pass this committee. By adverse report, by amendment, and by the moving of the previous question, the committee could effectually block any legislation the cabinet member desired. After the previous question has been moved no amendments can be offered. The cabinet member's chance for the use of his "voice in discussion" is gone. Once again, futility.

But on the other hand, there is the possibility that times and contingencies might arise which would cause the power of the executive officers to increase very greatly. During a great war, a national calamity, a crisis, a group of men of great personal and persuasive powers and political ability might override the legislative department. They might initiate legislation contrary to the constitution; they might sit in committees; and, by their very power, they might become the leaders of Con-

gress. The executive would then become also the legislative, and the men who carry out the laws would make the laws to suit themselves. We should then have that perfect coördination, that perfect despotism, a single body of men legislating and administering at the same time. Chancellor Kent says, "In absolute monarchies the power to make laws and to execute them resides in the same person. What is distinctive of democracy is, that the people make laws for their own government and the executive is merely the servant of the people to carry out their will as expressed in the laws. To just the extent that you take legislation from the control of the people and place it in the hands of a powerful executive, though that executive be nominally dependent upon the people, to that extent do you depart from the principles of popular government and approach those of personal government or absolute monarchy." There is a wide difference between executive assistance in legislation and legislating to execute. So we see that the power of the administration to advance its policies, as far as the affirmative proposal is concerned is of no real value, unless the cabinet members are given such power as it is absolutely dangerous to give them from the point of view of democracy.

In the second place, this plan would fail to accomplish its end in that legislation would not be made more intelligent if the cabinet members were to sit and speak in Congress. According to our system of congressional government the heads of departments are called before the committees and there they give all information they can

or will give on a subject. Before such committees they can and do give their advice without restraint and in that conversational tone which permits of freedom. It is in the committees that the cabinet officers give their detailed and technical information, and it is in the committees that the detailed and technical work of Congress is done. If, however, these men are to be questioned before Congress will not their answer be guided in a large degree by what is most expedient for them to answer?

But the affirmative assert that they intend merely to supplement written reports by oral explanations, thus giving Congress a greater grasp of facts. But, as has been said, under our system Congress is not a debating body; it receives and considers the reports which the cabinet members have prepared with the greatest care so as to be as clear as possible; it receives the president's messages upon department matters. Through these channels it obtains all the information it needs. Oral explanation could make nothing clearer. A cabinet member's statements might be misunderstood, but there can be no misunderstanding of a plainly written report. It was for this reason that it was decided in 1789 that Alexander Hamilton should give his report in writing. It was feared that Congress would not be able to comprehend its scope and bearing unless it had before it a report in permanent shape. No better, clearer, or more comprehensive information can be gained than by the present method of written reports from the cabinet members and by having them appear before committees to answer questions. Governor Cox of Ohio said before Congress at

one time, "So far, then, as Congress requires information and advice from the departments, it can always obtain it, perhaps in over-abundance. If it come not in the graces of oratory it will come in the more pithy, and in this age more useful and in this House indispensable, form of writing and printing." And thus we see that in this respect also—the securing of more intelligent legislation as a result of better information—the affirmative proposition is of no avail unless cabinet officers secure practically complete control of Congress.

Since, then, we see that this measure can be of no use in securing greater coöperation by enabling the cabinet officers to impress their policies upon Congress, since they would have no power of initiative, since they would have no power in committees, and since their power of discussion after the bill left the committee would amount to practically nothing, and further, since we see that it would be of no use in securing more intelligent legislation as a result of better information, since the cabinet officers would not answer as clearly or as definitely before Congress as before committees, since written reports are more definite than oral, since we see that in both the respects of gaining better information and coöperation in legislation the affirmative proposition is of no avail unless cabinet officers be given powers, which are dangerous to democracy and which the affirmative denies them, we conclude that there is but one apparent outcome to such a measure—futility or danger. In fact, the whole case of the affirmative stands thus: It is an attempt to gain unnecessary results—futility or danger.



## THIRD NEGATIVE, MOORE GATES, PRINCETON '16

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In the discussion this evening my colleagues have already shown the adequacy of the present system, and the futility and danger of the proposed bill. I propose to show how disastrous it would prove to graft this small portion of parliamentary government into our congressional form.

Let us compare briefly the British parliamentary administration with our congressional system. In England only the members of the House of Commons are elected by the people, while we elect the House of Representatives, the Senate, and the President. In England the ministry is chosen by Parliament from among its leaders, and is forced to resign if the legislature disapproves of its policy either legislative or administrative. In the words of Bagehot, "The cabinet is a board of control, chosen by the legislature out of persons whom it knows and trusts to rule the nation." Thus we see that the king as regards actual government is a figurehead; the prime minister holds the real executive authority, but only so long as he works in harmony with parliament; and that in parliament is centered the fundamental power since its leaders are chosen as executives, and hold their power on condition that they remain its leaders.

On the other hand, let us consider our own American Government. First of all, we have a written constitution which is acknowledged by all to be the fundamental law of the land. This constitution was drawn up by the

founders of our nation to create and preserve a unique government by principles and laws, and not by popular impulses. That the will of the people might be the actual ruling force, it provides for a division of powers into executive, legislative, and judicial. Let me quote from the Annals of the American Academy to show the difference between the American and European conception of government: "Europeans have thought of legislature as belonging to a governing class. In America there is no such class. Europeans think that the legislature ought to consist of the best men of the country; Americans, that it should be a fair, average sample of the country; Europeans that it ought to lead the nation; Americans that it ought to follow the nation."

The British system has grown up to fit certain conditions, and every part is in definite relation to every other part. Our congressional government was created on absolutely different principles, to meet different conditions. It is the best known method whereby rash, popular impulses may be controlled, and injurious legislation prevented. But it provides that the United States shall be a true government by the people, and not a government by a small oligarchy of politicians. Now what does the affirmative's proposal really mean? The rules recommended to govern the Pendleton and Montague bills were almost identical with the British House of Commons. The affirmative would have us take over into our congressional government a practice which is merely an important step in the natural growth of the parliamentary form. It would be like taking an important special part

of a complex bridge built by one group of engineers to fit certain conditions, and trying to put it into an important place of another bridge built by other engineers to fit totally different conditions. The result would be manifestly disastrous. It would give us the evils of parliamentary governments without the safe-guards of direct responsibility. Let me quote from President Lowell of Harvard in his essays on government in regard to this: "The question of cabinet ministers having votes or not is really immaterial as far as the general effect on the form of our government is concerned, because ministerial responsibility can exist as completely when the cabinet officers have no votes as when they are, for all purposes, members of the legislature; and evidence of this may be found in several of the parliamentary governments on the continent of Europe. It would be possible to show that this plan would either result in a full-fledged, responsible ministry or produce little or no effect, whether for good or for evil, and result in nothing at all. The advocates of such a change claim for it all the advantages without any of the perils of a cabinet government, whereas, it is clear that none of the benefits they expect from it, such as a closer coöperation of the legislature and executive, or a recognized leadership in Congress, or a centralization of political responsibility in the hands of a few men or rather one group of men whose notions the nation can easily follow and upon whom it can pass judgment at a stroke,—none of these results could be obtained, unless the cabinet officers in taking their seats became the responsible leaders of

Congress in the strict parliamentary sense." That is exactly our opinion.

Now, what would this responsibility lead to, first of all in the case when Congress was of the same party as the executive? It is quite natural that able and ambitious cabinet ministers should endeavor to influence legislation; and that it is equally natural that they should succeed, and become the real leaders of Congress. Leadership involves responsibility, and we should first have the impossible situation of cabinet ministers trying to serve two masters, the president and the legislature. Walter Bagehot, while discussing the separation of the legislative and executive powers in this country, remarks, "To the effectual maintenance of such a separation, the exclusion of the president's ministers from the legislature is essential. If they are not excluded they become the executive; they eclipse the president himself." Furthermore, ministers who become the leaders of Congress, would find it very easy to carry out their own policy of administration, without much regard to the wishes of the president. We should then have a government by a political oligarchy, and not by the people. Secondly, this amalgamation of the executive and the legislative would accomplish a change in our government which even the great Civil War failed to bring about. The affirmative claims that this bill would increase the interest of the people in national affairs. The people as a whole take more interest in politics here than in any other nation under the sun. An increase of this interest would in itself be a very good thing, but it must not be for-

gotten that a concentration of popular interest means also a concentration of popular power. If the people get excited beyond a certain point over a federal question, they will endeavor to give effect to their opinion without any regard for the rights of the states. We had an example of this at the time of the Civil War, and it is a proof of the strength of our constitution and of our balanced government, that the war did not produce a much greater centralization—that the federal authority did not then encroach upon the sovereignty of the states.

In the second place, what would this responsibility lead to if Congress were of the opposition party? In England, there is no chance for such a possibility because the ministers are always the leaders of the majority in parliament, and are immediately forced to resign if the majority deserts them. Parliament is supreme. The government is really an oligarchy of politicians, because unlike congressional government, the people have no way of exercising checks upon the human fallibility of their representatives. Endless and dangerous complications would be the only result if we should attempt to adopt this unnecessary, extraneous measure into our congressional government. Cabinet ministers would be called upon to defend before a hostile Congress the policies of the president, and his administration. This brings forth the possibility that a cabinet minister might take a stand before Congress which the rest of the cabinet and the president would be unable to endorse. Strife and misunderstanding would be the results. Again, they would make but a sorry piece of work in

defending acts of the president and his other advisers unless they really approved of those acts, and were willing to assume complete responsibility for them. In our administration, the heads of departments act as the president's advisers, but he is not forced to take their advice, and presidents have often pursued policies not approved by some of their advisers. What do you think would be the result of a cabinet minister standing before a hostile congress to answer concerning actions or policies of the president of which he, himself, did not approve? Here again the result would be misunderstanding and a lowering of the prestige of the executive. If a president should make an unfortunate choice of his advisers or if the opposite party should control Congress the practical effect would be this: Congress would constantly demand explanations from the ministers, defense of the most trivial actions in their departments, and reasons for even the most delicate and diplomatic of the executive policies. The ministers would gradually become more and more responsible to Congress and the president would lose much of his power to act as a check upon the other branches of the administration. Moreover, Congress is composed of two branches, the Senate and the House. Could the secretaries be responsible to both of them? Perhaps in theory for awhile; but what would happen if one was Democratic and the other Republican? The result is clear. The whole House of Representatives is elected every two years, while only a third of the Senate changes. Thus public opinion would be most clearly expressed by the House,

and to it the ministers would eventually become responsible. Mr. Bagehot's description of the House of Lords would then come gradually to apply to the Senate. He says, "The House of Lords has become a revising and suspending house. It can alter bills; it can reject bills on which the Commons is not yet thoroughly in earnest, upon which the nation is not yet determined. Their veto is a sort of hypothetical veto."

In short, either the whole principle of our government will be changed, or the affirmative's plan will fall into disuse and there will be no result whatever. Why, then, are we asked to take this ill-considered step? Because forsooth, there will be a little more union and coöperation between the divisions of government which are now as closely related as is compatible with the balance of power, because it is claimed there will be more responsibility in the government. Yet it is this very concentration of responsibility that is liable to destroy our whole plan of government. And, finally, because it will bring better legislation and greater efficiency into the administration as a whole. But the affirmative plan is totally inadequate to accomplish any of these results. They cannot be secured without creating a truly responsible ministry. How will cabinet ministers be able to secure better legislation unless they can take charge of bills in the committee rooms? How can they be held responsible for them unless they can do this? We must accept either a parliamentary government in its entirety or we must preserve our own congressional government. The affirmative's proposal would give the cabinet ministers

power without its accompanying responsibility. Under a strong executive in harmony with Congress the result would be an unwise centralization of power, and an encroachment upon the sovereignty of the states. If Congress and the ministry were of opposite parties we should have misunderstanding, misrepresentation, and a centralization of all power in Congress, and more especially in the House of Representatives. We might just as well give the judges of the Supreme Court seats and voices in discussion in Congress. Ladies and Gentlemen, I appeal not only to your good sense, but also to your patriotism, for this bill is totally inadequate to bring about the beneficial results claimed for it; it is so ill-considered as to introduce the evils from which England is suffering so notoriously, into our American, democratic, congressional government.

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# **THE RECALL OF JUDICIAL DECISIONS**





# THE RECALL OF JUDICIAL DECISIONS

***I***

*Illinois Wesleyan vs. { James Milliken University  
and  
Eureka College.*

The first of a series of three triangular debates between Illinois Wesleyan and James Milliken University of Decatur and Eureka College, Eureka, were held March 27, 1913. The affirmative won two to one in each debate. Illinois Wesleyan had the affirmative against Eureka College and the negative against Milliken University. The question as debated was:

***Resolved, That judicial decisions should be subject to a recall by the people.***

The Illinois Wesleyan speeches were contributed by Mr. P. C. Somerville, head of the department of Public Speaking, in behalf of the debaters.



# RECALL OF JUDICIAL DECISIONS

*ILLINOIS WESLEYAN vs. EUREKA COLLEGE*

FIRST AFFIRMATIVE, R. E. DEBOICE, ILLINOIS WESLEYAN

Honorable Judges, Ladies and Gentlemen: The proposition before us this evening is, Resolved: that judicial decisions should be subject to a recall by the people.

The need which has given rise to the wide spread demand for the so-called "recall of judicial decisions" is the fact that our state courts by their ultra-conservative interpretation of the police power are preventing the enforcement of many progressive, social and industrial laws. The courts in declaring such laws unconstitutional invariably do so under the "due process clause." Neither the due process clause nor the police power has any definite application that is apparent upon its face. The interpretation of both is altogether elastic and must be determined by the surrounding circumstances. They are necessarily in constant conflict with each other, because the due process clause guards the personal rights, while the police power subordinates the welfare of the individual to the welfare of society as a whole and sacrifices the rights of the individual to the welfare of society.

The foundation principle of all government is that the

rights of the individual are subordinate to the rights of society. It is the police power of our governments which is designed to accomplish this subordination of the individual to society and when you deny to a people the right to exercise this power you are placing the right of the individual above the welfare of society and striking at the basic principle of government. And, Honorable Judges, this is exactly what the state courts have been doing by declaring unconstitutional, as in violation of the due process clause, the laws passed by the legislature in the exercise of the police power.

But let us get some idea of what this police power is. The Cyclopedia of Law defines it to be "that inherent sovereignty which it is the right and duty of the government to exercise whenever public policy in a broad sense demands regulations to guard its morals, safety, health, and good order, or to insure in any respect such economic conditions as an advancing civilization of a highly complex character requires." The Supreme Court of the United States says, "The police power extends to all the great public needs. It may be put forth in aid of what is sanctioned by usage, or held by the prevailing morality or strong preponderant opinion to be greatly and immediately necessary to the public welfare." Can you conceive of a government without this power? It is the only living, growing tissue included in our constitutions. It is this power alone that makes the constitutions adopted by our forefathers at all applicable to the changing conditions of modern times. It is through this gateway that we must gain

admittance for all modern social and industrial legislation.

Yet our state courts have refused to recognize the prevailing morality and preponderant opinion of the people. They have held to precedents established in mediæval times and have placed the individual above the welfare of society. It is for these reasons, Honorable Judges, that we propose the recall of judicial decisions.

In proposing this measure we do not intend in any way to impeach either the integrity or ability of the judiciary. The state courts consider themselves bound to follow established precedent and of right they should follow precedent. However, it is this which has caused the present dissatisfaction with the judiciary. As Judge Howard of the New York court of appeals says, "Many of the edicts issued to-day record not the views of judges who sign them but of judges who lived before the Renaissance." We would like to ask our worthy opponents if they expect us to regulate modern gas and electric corporations by decisions rendered in the days of the tallow candle? Do you expect us to control our modern railroads by the laws of the stage coach? In the rapid change of social and economic conditions arising from the great industrial progress of this age, laws and precedents are constantly becoming obsolete and their continued enforcement not only obstructs progress but often works positive injustice.

Let me cite an instance in the decisions of our own supreme court. In 1893 our legislature realizing the need, passed an eight hour law applying to women

in certain occupations. This law was designed for the protection of society at large. Yet the supreme court of our state in deciding the case of *Richie vs. The People* 155 Ill. 98 refused to recognize the police power of the legislature and declared the law unconstitutional as in violation of the due process clause, and the eighth syllabus stated that "the said act of June 17, 1893, cannot be sustained as a police regulation on the grounds that it is designed to protect women, as sex alone will not justify the exercise of the police power." Thus was the first attempt of Illinois to protect her women and prevent her future citizens from paying the toll of modern industrialism set at naught. We do not dispute the correctness of our supreme court's decision. They undoubtedly decided correctly according to the precedents which they had in their books. We cannot blame them, they were simply not in a position to know the crying need for protection for the health of these poor women and their offspring.

It took sixteen long years for popular opinion to make its cry penetrate the walls of our supreme court chamber and compel this court to recognize the need of such legislation. In 1909 our legislature again passed such a law and in the case of *Richie vs. Wayman* 244 Ill. 509 our supreme court declared this law constitutional, saying in the 5th syllabus, "the law is not invalid as discrimination between men and women. The physical structure and maternal functions of women, and their consequent inability to perform, without effect upon their health and the vigor of their offspring work which men may do

without overexertion, justify the discrimination between men and women." It took our supreme court sixteen years to find this out and hence progressive social legislation along this line was delayed sixteen years. How many poor innocent children's lives do you suppose were snuffed out or forever blighted as a result of the long hours of labor performed by their mothers during those sixteen years' delay? Was this justice? Would it not be better, after our supreme court has declared such a law unconstitutional, upon precedents established in medieval times, to give the people a chance to decide in the light of modern conditions whether or not they shall construe such laws as being within the police power granted to their legislature?

The plan which we propose is that the state courts should be confined in their decisions to the interpretation of the provisions in the state constitution. And when a state court has set aside as unconstitutional, a law passed by the legislature in the exercise of the police power, the question whether or not such law shall go into force regardless of the court's decision, should be submitted to a vote of the people after allowing due time for consideration.

To accomplish this we would suggest an amendment to the due process clause in substance providing for the taking of such a vote at a general election, not less than one year after the handing down of the decision; upon a petition of twelve per cent. of the voters in one-fifth of the counties of the state. And providing also that upon the favorable vote of a majority of the electors,



such law shall go into effect. You see, Honorable Judges, what we propose is to make the persistent opinion of the preponderant majority the ultimate factor in determining the scope of the altogether elastic police power.

The question of what falls within the police power of a state is not a question of law requiring a trained legal mind, but a question of fact as to whether a certain law operates for the general welfare of the people. Gentlemen of the negative, is not the voice of the people, coming as it does from every walk of life and every part of the state, better qualified to know the needs of the people than are seven judges chosen from a single profession? And here we should like to ask our worthy opponents if they grant the ultimate sovereignty of the people over the courts? We maintain that the people have this right, and my colleague will show you that it is in direct accord with the basic principles of our Republican Government. And, Honorable Judges, since our state courts, by putting the individual above the welfare of society and refusing to recognize the preponderant opinion of the people, have made it necessary, we maintain that the plan we have described should be adopted.

SECOND AFFIRMATIVE, HOWARD RHEA, ILLINOIS WESLEYAN

Honorable Judges, Ladies and Gentlemen: My colleague in introducing the affirmative of this question has shown you our position and pointed out a few of

the existing conditions that make the need for Recall of Judicial Decisions imperative.

There is to-day in America a cry welling up from millions of voices calling for adequate social justice and legislation. When our various state constitutions were established, the factory system and other products of capital were in an embryonic condition. Now things have changed. We have many new institutions to deal with. Ideas of social justice prevalent in the past are now superseded by new ones made necessary, due to the present industrial conditions. But in this century of progress our constitutions except for a few minor amendments have not changed. Yet our courts are basing many of their opinions, which determine the constitutionality of social legislation upon instruments which in their inceptions of social justice are now obsolete. My colleague has adequately shown us that the various courts due to their reverence for precedent are working a grievous injury to the laboring people. To-day the huge corporations use our courts as a bulwark behind which to hide and block social legislation. Shrewd corporation attorneys point out technicalities of a minor nature which a judge must follow and thus the will of the people is circumvented. The people are clamoring against these antiquated ideas, these minor technicalities, this blocking of social justice, and, Honorable Judges, the individual is essential to progress and the people collectively must pass laws to conserve natural and human resources. You know that the people that pass

those laws know the conditions which make it imperative that these laws be had. Shall the court test these laws by applying to them ideas prevalent in the past or present? My worthy opponents know that our courts have not answered this question.

When modern ideas of social justice are declared unconstitutional our courts are acting as clogs to the wheels of human progress. To illustrate: In the latter part of the preceding century the mining conditions in Pennsylvania were in a terrible condition. Great companies owned all the mines and were forcing the miners to accept their pay in store checks redeemable only at the company stores. Thus with the company in full control the miners were forced to accept this inadequate pay or remain idle. Accordingly the legislature passed a law which prohibited the paying of the miners with these store checks. The supreme court of that state declared it unconstitutional upon the grounds that it abrogated the miner's freedom of contract. To anyone who knew the facts in the case this decision was pathetic and ridiculous. Yet you know that it is such decisions that the people are facing to-day. Astonishing though it may seem, from 1902 to 1908 there were 468 statutes declared unconstitutional in the United States, the greater part of these being laws for more adequate social justice. Such are the conditions that we the people of the United States are confronted with to-day. Are we to permit such a state of affairs to exist? Shall honest but antiquated judges continue to block needed legislation because they do not hearken to the cry of to-day but are wrapt in the

verbiage of the ancients? The people have been genuinely conservative in regard to our courts. But the cry for social legislation can no longer be stifled. Grasping corporations can no longer oppress the people. The cry for social justice can no longer be denied.

What is the remedy? With our system in vogue this needed legislation can be easily secured. Suppose the people of Iowa had our recall. The legislature might pass a law calling for a working man's compensation act. The supreme court of Iowa might, as many other courts have done, declare this act unconstitutional. Now the laboring people need such a law. Injuries under the present system cannot be adequately compensated. The expensive litigation, lawyers' fees, prevent an adequate settlement. But the people of Iowa have the recall. Realizing the need for legislation of this kind a petition is immediately circulated. An educational campaign is carried on and in a short while the people vote on the issue. If a majority of the electorate decide that such a law is needed, the law goes into effect and the supreme court's decision is overruled. This is the system which we advocate. Simple, direct, conservative and efficient, its adoption would solve the problem of social reform and secure a much needed class of legislation.

Furthermore, there is a necessity for relieving our courts of the necessity of deciding in finality those questions which are outside the scope of their anticipated functions. When our courts were established they were meant to interpret the law, but to-day due to their ability to declare laws unconstitutional they have virtually be-

come a lawmaking body. We do not believe that the power to declare laws unconstitutional should be taken from them but that they should be limited or restricted in their use of this power. In other words we maintain that when a court and a legislature clash regarding the interpretation of the constitution the people should have the final voice and decide which interpretation should stand. Who of you will affirm that any seven men no matter how highly skilled in legal lore are better qualified to decide on the right or wrong morally of a question than several millions of people who look at the question from the light of present-day standards rather than those of archaic laws formed before America was discovered. Still such is the condition to-day. Dr. Wm. Draper Lewis, the eminent jurist and dean of the great Pennsylvania State school, says: "We should not assume that a court was wrong in interpretation of the constitution. We should assume that it was right. But we should assume that the people have the right to know whether or not they want that particular enactment as a part of their laws." Our courts have been assuming a function outside the scope of their anticipated powers and we maintain that the people are qualified to relieve the courts of the burden of deciding in finality those questions that are so essential for a better social adjustment and progress of the human race. Our supreme court has said "Law is a progressive science." Restriction laid upon some classes of individuals will be found in the progression of time to be burdensome. Other individuals will not get pro-

tection enough. When the existing laws fail to meet the conditions, there is need of a final court of appeals. That court should be the People. The leading southern jurist, Chief Justice Walter Clark of the North Carolina supreme court, declares, "The vast political power held and exercised by our courts to set aside public policies after their full determination by the legislation cannot be safely left in the hands of any one body of men without supervision by some other authority."

With the Recall of Judicial Decisions in force, the people would be given the authority to decide ultimately those vital questions the proper solution of which means so much for the advancement of the American Nation.

THIRD AFFIRMATIVE, RUSSEL BOOTH, ILLINOIS WESLEYAN

Honorable Judges, Ladies and Gentlemen: We have studied the conditions giving rise to a need for adopting the recall. We have found that courts must usually decide cases involving the "police power" by the standard of outworn political philosophies and obsolete precedents; that wide-spread illiberal construction of the "due process clause" by state courts has worked serious injury to the cause of social justice; that under a new economic and industrial organization of society there has arisen a most imperative need for humanitarian legislation; that measures for conserving the public welfare provoke questions of fact, not of law, the final solution of which should, in the very nature of the case, be entrusted to the people rather than to the judges. We have championed the right of the people, in case of disagreement

between the legislative and judicial branches of the state government, to act as ultimate sovereigns in deciding if the law in question is within the scope of the police power.

Now, let us consider the measure we advocate in contrast with the present system of constitutional amendment. We shall find that, because of the rapidly changing social conditions of our modern age, continuance in the old method is perilous, but, on the other hand, we shall find that the adoption of the recall would mitigate all danger and establish a method of securing a definite expression of the people's will, at once conservative and effective. With the growing demand for social and industrial legislation and the attendant general dissatisfaction with the attitude of the state courts toward such legislation, the menace inherent in our present system of constitutional amendment is becoming ever more apparent. Let us examine into the nature of this peril—the reasons for this popular unrest.

Constitutional amendments, providing exceptions to the due process clause, must in their very nature be general. This fact opens up the way, not only for the repassage of the specific law desired, without possibility of its being held unconstitutional, but also for extreme legislation of the same kind. Thus, if the social condition occasions need for a law which has been declared unconstitutional by the state supreme court, the adoption of a constitutional amendment is not the sane or logical remedy. Let us illustrate by a concrete instance. In the case of *Ives vs. South Buffalo Railway Co.*, the New

York Court of Appeals held a workingmen's compensation act unconstitutional. But the need for such a law and the popular demand being so insistent, an amendment is now being constructed to admit the passage of a law of this kind. It will probably read, in effect, "Nothing in this section shall be construed to prevent the enactment of employer's liability or workingmen's compensation acts."

Now, what has been done? First, provision has been made, not only for the reënactment of the particular law, but also for drastic legislation in the future. For the court has been shorn of all power to declare any kind of employer's liability act unconstitutional; no restraints are left, and there can be no direct expression of the popular will. Secondly, the adoption of constitutional amendments creating exceptions to the due process clause, has in many states drafted upon their constitutions provisos of such ambiguous character as may well be expected to cause much trouble in the future. That attempts to make valid laws calculated to conserve the common good, should, in so doing throw down the bars for the unchallenged entrance of drastic legislation, is both perilous and unnecessary. Our proposal for popular definition of the police power, or recall of decisions, secures the end in view and does away with the evils attendant upon the present system. Since in almost every case the view of the judges, rather than the wording of either of the flexible clauses in state constitutions, has raised the barrier of unconstitutionality against police power legislation, the recall of de-



cisions provides the only adequate remedy, because it deals only with the particular act in question.

Again, you have seen that our plan proposes a sufficient period for popular deliberation, thus precluding all possibility of control by "the fitful impulse of a temporary majority." If popular definition of the scope of the police power is the tyranny of a temporary majority, it must follow that all democratic government is tyrannical, and indeed, if there is so great distrust of the people as to occasion fear for the exercise by them of their traditional right of ultimate sovereignty on questions of public need, the provisions of the Federal Judicial Code must surely allay such misgivings, for in Section 237 we find that if a state decision, whether handed down by court or people, is in favor of a law's validity, such decision is reviewable by the United States Supreme Court. Thus, if the people should under our system despotically declare an unjust law valid there still remains the right of appeal to the Federal Supreme Court, and surely there can be no doubt as to the justice of its decision.

To maintain that our proposal is inimical to republican government is to misunderstand the nature and functions of American government. We feel that no statement as to the essentials of republican government could be more acceptable than that by Alexander Hamilton,—  
"The people are the only legitimate fountain of power, from them all governmental power is derived; it seems strictly consonant with the republican theory to recur to the same original authority, not only whenever it may be

necessary to enlarge, diminish or new-model the powers of government, but also whenever any one of the departments may commit encroachments on the chartered authority of the others; for how are the encroachments of the stronger to be prevented, or the wrongs of the weaker to be redressed, without an appeal to the people themselves, who, as grantors of the powers of government, can also declare its true meaning and enforce its observance." No, Honorable Judges, to contend that our measure strikes at republican forms is simply to ignore the basic and fundamental principles of the American system. Even the *New York Times*, a paper famous for its non-progressive views, has said, "that the definite will of the majority of the voters, deliberately formed, consistently adhered to and fairly expressed, should determine the treatment of public affairs in all branches, even the judiciary, is the fundamental principle of democracy."

It has been said, further, that the adoption of our plan would impair the independence and destroy the efficiency of our judges and courts. This again shows failure to appreciate the true significance of our proposal. Rather than destroy the independence of the judiciary we seek to increase that freedom from restraint by restoring the courts to popular favor through the removal of their present burden of final decision in police power matters, which has given rise to so much dissatisfaction. Now, we would ask, how is it possible to destroy or impair the courts by a restoration of the people's confidence? Why is there harm in a system which would

relieve the courts from the necessity of making the final guess on questions which should never have been theirs for final determination?

Honorable Judges, we have shown the superiority of our proposal over the present system of constitutional amendment, we have pointed out that fear of majority rule must be grounded on an inherent lack of faith in the people and a disbelief in democracy, we have proved that nothing could be more in harmony with republican institutions, we have demonstrated that our system would of necessity operate in bringing about increased confidence and efficiency in our judiciary. On these grounds we urge the adoption of this measure which is at once conservative and efficient.

*ILLINOIS WESLEYAN vs. MILLIKEN UNIVERSITY*

FIRST NEGATIVE, RICHARD DUNN, ILLINOIS WESLEYAN

Honorable Judges, Ladies and Gentlemen: The gentleman just preceding me on the platform has stated the question to you, namely that judicial decisions should be subject to a recall by a vote of the people. As he has already told you the question is one of paramount importance in political camps at the present time and one demanding attention from every strong minded citizen in our country. His statement of the history of the question and its definition are directly in line with the contentions which we of the negative wish to advance this evening and in fact I wish to extend our hearty

thanks to the first speaker on the affirmative for making our introductory speech for us. He has saved us considerable trouble, allowed us more time, and given us a good foundation upon which to base our argument.

I wish to state at the outset that we of the negative are open to conviction on the resolution being discussed this evening, but I wish to add that the gentlemen of the affirmative must conclusively answer a number of questions which we of the negative will ask them in the course of the debate. Unless they can answer these questions in a conclusive and satisfactory manner we ask that you, Honorable Judges, render your decision accordingly. Every objection to their resolution must be answered before this assemblage should consider the adoption of the measure, and they must also prove that the measure which they propose will involve less evils than those which they must necessarily maintain exist in the present system.

We of the negative are not so short sighted as to say there are no evils in the present system, but as a matter of fact we admit that there are evils. But we believe that you will agree with us when we state that undoubtedly the affirmative in their zeal have painted them in colors a little too bright. I believe further that if we should take time to ask the gentlemen they would admit that they have painted these evils in such a manner fearing that otherwise they might not be seen. Further, Honorable Judges, we are not going to clash with the gentlemen on the evils in the present system, nor are we going to take issue with them on the right of the people

to rule. And, further still, we are ardent believers in the value of the referendum when applied with certain restrictions. But, Honorable Judges, we are going to take issue with the gentlemen upon the value of the method by which they propose to eradicate the evils. We are in sympathy with their purpose and in fact we walk hand in hand with them toward the goal which they seek to reach. Our efforts therefore will be directed toward showing that their method does not secure the results which we both hope to acquire.

Honorable Judges, we first demand of the affirmative that they explain the system which they propose to have adopted. Second, that they explain how they expect to have this system adopted; and third, that they prove that their system will work by submitting to us the evidence, authority, and proof sufficient to show that their system will accomplish what they claim for it.

All of us know that every state in the union has its constitution and further that the United States has its constitution. And here, Honorable Judges, is where the advocates of the recall fall down. In other words they do not stop to think that they have to deal with a double standard or two constitutions.

Let us for the sake of argument assume that we have already adopted the recall measure which our opponents propose. Suppose that a law dealing with workingmen's compensation has been declared unconstitutional by our state supreme court. Then in a recall election there accidentally happens to be little interest and this unconstitutional decision is upheld by a popular majority. Gen-

tleman, I ask you, have you not made it harder than ever to get the desired legislation? In other words, if the first Richie case dealing with an eight hour day for women had been upheld as unconstitutional by a majority on top of the court decision, explain how it could be possible to get away from that belief in sixteen years.

Second, presume that a law dealing with workmen's compensation has been declared unconstitutional by our state supreme court but is adopted by a recall vote. It then becomes a law in spite of its unconstitutionality. Now then in the course of a few years it is found that the law does not work as was expected and needs amendment. The courts likewise declare the amendment unconstitutional for the same reason that they declared the law itself unconstitutional. And then to get this amendment, another recall is necessary. Honorable Judges, leaving it to your judgment, what of the expense of these recalls and what appearance will our constitution present in the course of ten years under its operation?

Again, a law is declared unconstitutional by the state supreme court according to provisions in our federal constitution. Gentlemen, there is no higher appeal and when the law is unconstitutional according to provisions of the federal constitution, what, I ask you, will be the value of your recall?

Again, a law is declared unconstitutional by the state supreme court according to provisions in both the state and the federal constitutions. There being no higher appeal, and the law being unconstitutional to both constitutions, gentlemen, I ask you, what your recall will ac-

comply? Then we have again, a law declared constitutional by the state supreme court but it is held, on appeal to the federal supreme court, to be unconstitutional. Again, gentlemen, I ask you, what your recall will accomplish?

And finally, a statute has been declared unconstitutional according to the "due process" or "Equal protection of Laws" clauses in the state constitution by the state supreme court and this decision is recalled. Now then it is carried up to the federal supreme court under the same provisions in the federal constitution and again declared unconstitutional. And now, gentlemen, what has been the value of your recall: what does it accomplish?

Now, gentlemen, I wish to call your attention to one other fact. At the present time, let us take for example the state of Illinois; the constitution may be amended in two years time. Only once every two years is a state wide election held simultaneously throughout every county in the state. The gentlemen of the affirmative must do one of two things. They must admit that their method provides no quicker method of amending the constitution or else they must admit that in order to recall a single decision of the supreme court they would go to the expense of a state election which will not cost less than \$200,000 every time the recall is made use of. In this manner, Honorable Judges, it is plain to see that the gentlemen are offering us nothing new. In fact the constitution of Illinois has been in effect since 1870. It reminds me of a story I once heard. A child was born into a home where there was already a four year old

boy. The little fellow upon being taken in and introduced to his baby brother, placed his hand upon the child's head, looked up at his mother and said, "Mother, they have fooled you, this is no baby; it is a bald headed old man."

SECOND NEGATIVE, ALFRED GREENING, ILLINOIS  
WESLEYAN

Honorable Judges, Ladies and Gentlemen: My colleague has already proved to you that the recall does not accomplish the purpose for which it was created; he has asked the gentlemen of the affirmative a number of questions which they have absolutely refused to answer. He has asked them to explain how they will have their system adopted, and, second, to prove that it will accomplish the end for which we are all striving. Again, Honorable Judges, my colleague has given our opponents six hypothetical cases based upon the assumption that the recall is in use and they have failed to show in any of these cases what their measure will accomplish.

As a measure of practical reform the recall of judicial decisions is of little value inasmuch as in most states to-day the same purpose can be accomplished by ordinary method of constitutional amendment. It is my purpose to show you that the people are better judges of general principles than of points arising under general principles and that far less turmoil is to be aroused by adopting a constitutional amendment than under the recall.

On grounds of broad public policy, the electors of our



nation have been competent judges. All the people on broad issues are rarely wrong. They usually discriminate justly as to the merits of an act whether it is good or bad. Suppose we submit this general principle to voters: "Shall our constitution contain a provision fixing an eight hour day in mines and smelters." The average voter looks at this question in a broad view and will decide it in its general merits of good or bad. This was exactly what was done in Colorado in 1902. By popular vote the above amendment was inserted in their constitution, thus overruling the supreme court decision. The people of New York have set about to do the same thing in the workmen's compensation act. Eventually there will be submitted to the people of New York an amendment which will overrule by popular vote the court of appeals of New York and permit the desired legislation. These amendments involve general principles and are not confined to a particular issue arising under the general principle.

Honorable Judges, the gentlemen of the affirmative, in the words of Dean Wm. Draper Lewis, are advocating the same thing only, as he says, it involves a change of method. They do not want to authorize the legislature to enact a workmen's compensation act in general. If the workmen's compensation act is held unconstitutional it is said that what the people want is to vote whether that particular law shall be brought into force. They simply remove sufficient constitutional restraint to permit that particular law. Herein, gentlemen, is the seri-

ous defect in their proposal. Social and industrial legislation which both sides admit is sadly needed is now in a state of experiment and subject to change.

In substance says Prof. Dodd, "A workingmen's compensation act is passed by the legislature; then it is held unconstitutional by the highest state court; this decision is recalled and the particular law in question is no longer to be open to state constitutional objections: this law comes in force and some of its provisions work badly. To remove these undesirable features, the next legislature amends the measure. But the people have said that that measure of workmen's compensation and that measure only shall be relieved from constitutional provision as interpreted by the state court. The court will surely hold the amended compensation law unconstitutional. We are back to the starting point." You can see it is far more cumbersome than the amendment method we propose.

We have submitted a workmen's compensation act in general and can submit any compensation act desired. They have submitted a particular point or case under the general principle. Honorable Judges, you readily agree with me that the people are more competent under our system of amendment of revising decisions than by their method of recall. Every amendment states a general principle while the recall is a modification of a general principle. Gentlemen, we do not for a minute doubt the sincerity of those who advocate this reform, but we are at a loss to understand why they do not take the cases

my colleague has submitted and see just what turmoil they will cause when taken advantage of by adroit lawyers.

Now, Honorable Judges, let us take two or three particular cases such as would arise under the recall, each one necessitating an election, whereas all of these cases will come under the general principle contained in the amendment thereby requiring only one election. Our workmen's compensation act is passed by our legislature; the court holds it unconstitutional; the people have recalled it; a new but similar case comes up and according to precedent, the supreme court must hold it constitutional; by our federal judicial code this can now be appealed to the United States supreme court and they would interpret it as to whether it conflicted with the due process clause under the federal constitution practically identical with the same provision in the state constitution. Now take the bake shop case which involves another particular point under the due process clause, namely, that of depriving one of his personal liberty. Let it wind its way through the courts and be declared unconstitutional, which bars it from being appealed to the United States supreme court, and then be recalled; a similar case held constitutional which permits it on federal grounds to be appealed, and then declared void under the due process clause of the federal constitution.

Is this now what will occur, gentlemen? Let us pass an amendment in general terms which holds that any act purporting to be under the police power shall not be

deemed to violate life, liberty, and property clauses in our state constitutions. What have we gained? The many, many, particular legal phases that would arise under the due process clause would be held constitutional and would go directly on appeal to the federal supreme court. We have eliminated a thousand recalls which availed you naught by one election involving a general principle. I again quote from one of their authorities sanctioned by Col. Roosevelt himself, "It is but a change of method." Honorable Judges, which will you prefer?

Honorable Judges, is it not reasonable to anticipate the following result: in the famous tobacco tenement case an act was held unconstitutional as limiting right to contract. This act would have been recalled under the police power as a public health act. Now, gentlemen, the truth is that this was never intended as a public health act, it was not the designer's intention of protecting health of tobacco workers. The truth is that out of 870,000,000 cigars manufactured in New York city 370,000,000 or 44 per cent. were made in tenement houses. Now if the recall was in force the money of tobacco trusts as a power behind the throne would trick the people into believing that this decision was preventing an act desired by the preponderant opinion of the majority, whereas the tobacco trust were deceiving the people in order to kill off a trade competitor.

Honorable Judges, I have proved to you that it is far more to our interest to evade the evils which we all desire to eradicate by permitting the electorate to vote on general issues in an amendment than on specific instances

that would arise under the general issue. This would save cost of elections, turmoil and evils inherent in the recall system; complications arising because of moneyed interests being directly concerned in particular issues would be avoided because the principle is of such a general nature as to prohibit support or objection by personal issues being involved.

THIRD NEGATIVE, WILLIAM GENOVA, ILLINOIS WESLEYAN

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: My colleagues have asked the gentlemen of the affirmative to answer the questions which we have propounded to them and this they have steadfastly refused to do. They have not yet given satisfactory proof that their system will work and neither have they given a satisfactory explanation of how they will have their system adopted. Further, we have given them six hypothetical cases arising under the recall as they propose it and they have failed utterly to give an explanation of how their system will overcome these difficulties or what it will accomplish. We have shown you that the people are better judges of general principles and that far less turmoil is aroused under the amendment system than the system of recall which the gentlemen of the affirmative propose. And finally we have shown you that under the amendment system we take care of all cases in a general principle. But under the recall system there will be the necessity of an election to decide every issue arising under every recall decision.

In the meantime we wish to propose a substitute plan which is simpler, saner, and less radical than the recall of decisions, one which is not subject to the rash, hasty, improper action of accidental majorities, led or incited by sensational and insincere shouters, one that is sound in theory and safe in practice. The plan we advocate is in part in actual operation in Ohio under her state constitution. It has been unanimously approved by the American Bar Association. It has for its advocates such men as Professor Munro Smith, editor of the Political Science Quarterly, Prof. Costigan, of Columbia, and W. F. Dodd, of our own State University. The plan consists of two parts: first, we would amend section 237 of the federal judicial code so as to permit a wider appeal from state supreme courts to the United States supreme court, for that section as it now stands says in substance, that when the question of the validity of a state law is up for decision before the state supreme court as being repugnant to the federal constitution, if that state supreme court declares the law in question valid, under the constitution, then their decision may be reviewed by the United States supreme court, but if the state supreme court declares the law invalid as repugnant to the constitution there is no appeal. Let us illustrate with a specific instance: In the case of *Ives vs. the South Buffalo Railway company* the validity of the workmen's compensation law was in question. If the state supreme court had decided against the railway company and that the law was valid, the company could have

appealed to the United States supreme court. On the other hand when the state supreme court decided that the law was invalid no appeal could be taken by Ives.

Now our proposition is to amend the federal judicial code by striking out the clause which limits appeal from the state to the federal supreme court to decisions where the law is declared valid and however the decision may have been rendered an appeal may be taken to the United States supreme court. And since our opponents admit that the federal supreme court is broad and liberal minded in its decisions there should be no reason why it should not be final arbiter.

The second part of our plan requires that no statute be declared unconstitutional unless the decision of the state supreme court be concurred in by more than a bare majority of the judges. The Ohio plan requires five out of six of their supreme court judges to concur in a decision before their law can be declared invalid. There being seven judges composing the Illinois supreme court we would require six out of seven to unite in a decision holding a law invalid. And we ask our opponents is it probable that six out of seven supreme court judges on the bench of Illinois would declare a useful law invalid? Is it probable that a state supreme court knowing that their decision is subject to review by the higher and more liberal minded tribunal, the United States supreme court, will decide contrary to the interests of the people of their commonwealth? Under the present system a state supreme court knowing that if they hold a law valid their decision may be reviewed by the federal

supreme court, and, affirmed or reversed, will not declare a law constitutional unless there is no doubt of its validity, while if they declare the law unconstitutional they have no review to fear from the higher tribunal. Is it not probable, then, that, if any doubt exists, they will decide against the validity of the law rather than run a chance of having their decision overruled?

This prevailing custom on the part of our state supreme courts is the element that has caused the present unrest and by removing the cause in a simple, direct, and conservative manner, we can without harm, without radicalism remove the present ill feeling toward the courts. Remove the cause and the disease will disappear. And further, since our opponents are willing to admit that the United States supreme court is expressive of the will of the people, which they must be willing to admit, when they refrain from applying their recall measure to that tribunal, the people, through that branch of the judiciary do rule and yet rule in accordance with the present check and balance system of our representative government.

It is our plan to have the first of our measures adopted by the judiciary of our country and in fact they already have the change under consideration, while the second of our measures is to be adopted by a constitutional amendment as was done in Ohio in the last general election held in that state. We already have this measure pending in the legislature at Springfield. The change which we propose does not burrow holes under the system as it now exists to weaken it and make it fall, but modi-



fies and changes it to suit the changed conditions of the times, in a sane and conservative manner.

Honorable Judges, since our system accomplishes the end for which we are all striving in a simple way, and since it is in accord with the present system of government by the people, of the people and for the people, we are thoroughly convinced that the recall of judicial decisions should be rejected by this assembly and we move to adopt the resolution which we of the negative submit.

# THE RECALL OF JUDICIAL DECISIONS

## II

*Kansas Agricultural College vs.* { *Oklahoma Agricultural  
and Mechanical  
College and Colorado  
Agricultural College.*

The first annual triangular debates between the Agricultural Colleges of Kansas, Oklahoma, and Colorado were held April 4, 1913. The affirmative teams debated at home, and the negative teams away. K. S. A. C. won on both sides of the question, winning from the Okla. A. and M. Negative by a unanimous decision at Manhattan, Kans., and from the Colo. A. C. Affirmative by a two to one decision at Fort Collins, Colo. Two entirely different K. S. A. C. teams, composed of three men each, won on both sides of the same question by two to one decisions from Fairmount College, Wichita, April 11, 1913. The question discussed was:

*"Resolved, That the constitutions of the various states of the Union should be so amended as to subject the decisions of the state supreme courts on constitutional questions to recall by popular vote."*

The K. S. A. C. speeches were prepared for publication by Professor J. W. Searson of the English Department and by his assistant, Mr. Carl Ostrum.



# RECALL OF JUDICIAL DECISIONS

*KANSAS AGRICULTURAL COLLEGE vs.  
OKLAHOMA A. & M. COLLEGE*

FIRST AFFIRMATIVE, W. A. SUMNER, '14 K. S. A. C.

Mr. Chairman, Honorable Judges, Friends: The question for debate to-night is: Resolved, That the constitutions of the various states of the Union should be so amended as to subject the decisions of the state supreme courts on constitutional questions to recall by popular vote.

In defining this question, I wish to say that it has nothing to do with the United States constitution or the judges of the Supreme Court of the United States. It has nothing to do with any special clause of the United States constitution. The recall of judges does not affect this question, nor will it affect any civil or criminal case. What the recall of judicial decisions is can be best expressed in the words of the originator of the system, Theodore Roosevelt. He says: "I am proposing that in a certain class of cases involving the police powers, when a state supreme court has set aside as unconstitutional a law passed by the legislature for the general welfare of the people, the question as to the validity of

that law be submitted to the people for final vote, after due time for deliberation." In other words, the people who created the constitution can interpret its meaning. No court can then usurp this power.

We, the affirmative, shall discuss this question under three heads:

1. Our judiciary is in need of reform.
2. The recall of judicial decisions is practicable.
3. The recall of judicial decisions is correct in theory.

Our judiciary is in need of reform, for our present system of checks and balances is inadequate. When the constitutional forefathers framed the United States constitution, they divided the government into three divisions, the executive branch, the legislative, and the judicial. They placed what were then deemed adequate checks upon each of these divisions, except that of the judiciary. Impeachment was the only check placed upon the judiciary. All of the state constitutions were modeled after the constitution of the United States, and we find the same need of checks existing in the state courts.

Let us notice the scope of the checks upon the judiciary. Impeachment is an absolute failure as a check upon the decisions of the courts. A judge may be impeached only for high crimes and misdemeanors. An incompetent judge, or an honest judge who makes an honest mistake, cannot be removed from office by impeachment. Every one makes mistakes, and why should we allow a judge's mistakes, even though honest, to affect our judiciary? Another check upon the judges of

the state supreme courts is that of legislative recall. But legislative recall is only for minor crimes and misdemeanors, and is operative in only 35 of our states. A third check is that of the short tenure of office. But a judge holds his office, on an average, for six years and it is impossible to correct his mistakes by defeating him. His bad decisions stand in the law. When cases are carried to higher courts, the higher courts act as a check upon the lower courts. But in our question, only the decisions of the highest court in the state are affected. From the supreme court of the state, except in cases in which the United States courts have appellate jurisdiction, there is no appeal. Here an honest mistake stands and cannot be corrected. It is here that our check and balance system is inadequate; and the recall of judicial decisions would act as a check at this point. We challenge our opponents to show a check upon the decisions of the supreme courts of the states at this point. Over one hundred bad conflicting decisions on constitutional questions have been rendered by judges of various state supreme courts, because of the inadequacy of our system. Here, the recall of decisions, instead of degrading the judicial system, will uplift the system and furnish a much needed check. These facts prove that our system of checks and balances is inadequate and that the recall of judicial decisions will remedy this particular evil.

My second point—to prove the need of reform in the state judiciaries—is that the courts have usurped the power to declare laws unconstitutional by changing the

wording of a law as passed by the legislature. Take, for instance, the case of *Adair vs. the People*, or the compulsory arbitration act in Illinois. The supreme court held that a single paragraph in that act was unconstitutional and read it out of the law. This paragraph was the vital paragraph of the entire law; without it the law was entirely inoperative.

Another example, that of the New York Street Car Transfer Case, shows clearly how the courts have usurped legislative power. The street-car systems in New York were owned by the same holding company, but each line was run independently of the others, so that it was necessary to pay a fare every time one wanted to transfer. The legislature passed an act forcing the companies to give transfers and provided a fine of \$50 for every violation of the act. A test case was brought up, and, in deciding the case, the court held that the legislature meant to say for each violation of the act. Hence, on account of the excessive cost of bringing suit, it made the act inoperative, and, in reality, made the law unconstitutional. Another case, a federal case, that of the Sherman Anti-Trust act, will again illustrate this need of reform in the judiciary. Up to April, 1911, it was illegal for any contract or combination in the restraint of trade to exist in the United States. Since that time the court has held that only those combinations working an unreasonable or undue restraint of trade were intended to be affected by the law. The supreme court has made itself the judge as to whether there was undue or unreasonable restraint of trade. These three cases, out of

many that could be cited, prove that the courts have usurped the power to declare laws unconstitutional by changing the wording of the laws.

A third reason to prove the need of reform is the influence of capital upon the decisions of the state supreme courts. The judges of every state supreme court, except two, run for office on a party ticket and a party platform. The party organization collects contributions to carry on the campaign. Who contributes to these funds? The trusts, the politicians, and not the people. Will not the judges be indirectly influenced by the men to whom they are beholden for their elections? It is a well known fact that in California the Southern Pacific railroad controlled the courts of that state. It was impossible to bring suit against the railroad with the expectation of winning. The conditions became so notoriously bad that the people of California passed a recall on the judges themselves. In Colorado, in 1899, the legislature of the state passed an act limiting the hours of labor in the mines to eight hours a day. The state supreme court declared this law unconstitutional. Two years later, the people of Colorado recalled this bad decision of the supreme court and amended the state constitution so as to provide eight hour working days in the mines. These suits were between the capitalistic interest on the one hand and the miners on the other. A few years ago the Standard Oil Company was fined \$29,000,000. The fine was never collected. It was clearly proved that the company was guilty, but its immense influence with the higher court made punishment impossible.



Oglesby, a Missouri Pacific brakeman, lost his legs in a wreck in Missouri. He carried his case to the state supreme court, winning in the lower courts. When he lost, he was refused a new trial; but when the railroad lost, it was granted two new trials and one of these new trials was the last one. Naturally, Oglesby lost. A few years later, the people elected Oglesby to a state office, because they thought that he had not received a square deal. When my opponents state, Honorable Judges, that reform is not necessary, they must prove that the courts are not influenced by capital.

It is interesting to note the men who stand for and against this measure. Against this measure we find Taft, Root, Penrose, Curtis, Crane, Butler, Aldrich, and every standpatter and corporation lawyer in the country. For this measure we find men like Theodore Roosevelt, Woodrow Wilson, Bryan, Bristow, Owen, Gore, and many other men of note, who are known to be fighting for the rights of the people and not for the interests. All these things go to prove that there is a great influence exerted by capital over the decisions of the state supreme courts.

Let me next cite a few instances to prove that the courts do make bad mistakes that could be remedied by the recall of state judicial decisions. Take, for example, the Bake-Shop case, or the People vs. Lochner. In this case, the legislature passed an act to regulate bakeries. It would have improved the surroundings. This law provided that the bakers could work only 10 hours a day

and that all underground bake-ovens should be abolished. But, when the interests came to bring a case to test the constitutionality of this act, they went out to Utica, a small city. They found a sanitary bakeshop in which the owner and his sons worked. The bake-oven was above ground; but upon this framed-up and unfair case the act was declared unconstitutional. Out of the twenty-two judges, who passed upon this case, twelve held that the law was constitutional, while only ten, a minority, held that the law was unconstitutional. The minority decided the act.

Here is another instance of a bad court decision, which the recall of decisions could prevent. In the Ives case a brakeman was injured. The Ives Act provided that when a working man was injured on account of the negligence of his employer, the laborer could bring suit and be awarded damages. But when a test case was brought before the court, instead of getting a fair case, the railroad lawyers went to a brakeman who was in a hospital, and who had been injured, as he admitted, by his own negligence. Lawyers paid his bill of \$40, and received his permission to bring a suit in his name. Ives was not in court when the trial was held. Four corporation lawyers, two on each side, presented the arguments in the case, and, upon such evidence as this, the court held that the employers' liability act was unconstitutional. Thousands of innocent men and women, who have been injured by the negligence of their employers have thus been cut off from a just compensation simply by this

piece of trickery. Other states had similar acts, which laws were declared constitutional by the respective state supreme courts.

The Jacobs, or Tenement House case, is another typical example of a bad court decision. The New York legislature passed an act to regulate the manufacture of tobacco in the home. The bill had the support of every labor union and of all social settlement workers. This act was declared unconstitutional because it interfered with the sanctity of the home. Jacobs lived in a seven room apartment, in one room of which he maintained a cigar manufactory. How many poor people live in a seven room apartment in the slums of New York city? Ninety-nine out of every one hundred live in one or two room apartments and then ply their trade in the same rooms. It is said that a short time after the trial Jacobs and his commodious seven room apartment disappeared. Was it not a "frame up" by the big companies to make cheap labor? A few years ago, in Madison Square Garden, a big exhibit was held. Across one side of the room there was stretched a large sign, which read, "The Jacobs case decision has retarded all tenement house reform for the last fifteen years." How many millions of dollars would New York give to clean up her tenements? In this case the recall of judicial decisions would have helped very materially in cleaning up the tenements of the city.

Another case, a federal case, that of the Dred Scott decision, shows what the people can do. When the supreme court of the United States held that the fugitive

slave law was unconstitutional, the people rose up and recalled that decision of the supreme court by a civil war that cost the country millions of dollars and hundreds of thousands of lives. These cases that I have cited are only a few of the hundreds of cases that could be quoted to show that the recall of judicial decisions is a necessity.

My second major point is, That the recall of judicial decisions is practicable. When we submit a reform to the people, there are three things which are necessary to make the reform practicable. The people must not be indifferent, they must study issues and vote intelligently, and the cost must not be excessive. If these three points are proved, then the reform will reform.

The cost of the recall of judicial decisions will not be excessive. Fair examples can be obtained in any of the states where the initiative and referendum is working successfully. We find such a system in Washington and Oregon. At an election in 1904, in Washington, it cost the people only two-thirds of a cent a vote to pass upon the different laws. Double this expense to provide for the circulation of the recall petitions, and we find that in the state of New York it would cost only thirty thousand dollars to have a recall. In 1906, at an election in Washington, it cost only one-half of a cent a vote for submitting the laws to the approval of the people. On this basis, an election in New York would cost only eighteen thousand dollars.

The state of Kansas has lost in revenue a hundred thousand dollars a year because of one decision in the

Western Union Telegraph Tax case. If Kansas had the recall of state judicial decisions, this revenue would most likely be saved to the state. The income tax law decision has caused the various states of the Union to lose one and three-fourths billions of dollars in the last eighteen years. This decision has cost the state of Kansas alone \$1,140,000 a year. How far would this amount go toward paying for all the recall elections that might be held in the next one hundred years? New York City could afford a much bigger expense, if it were possible to clean up the conditions which exist in her tenements. These figures prove to you that the cost of the recall of judicial decisions will not be excessive.

I have proved to you, Honorable Judges, that the judiciary is in need of reform; that the present system of checks and balances is inadequate; that the court decisions are influenced by capital, that the courts have usurped the power to change the meaning of the law by changing the wording of the law; that many conflicting decisions arise that the recall of decisions would remedy; and, lastly, that the cost is not excessive. My colleague will show further that the recall of state judicial decisions is practicable and that it is correct in theory.

SECOND AFFIRMATIVE, JAMES BOND, '15 K. S. A. C.

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: Many, who will admit a need of reform in our judicial system, maintain that the recall of state judicial decisions on constitutional questions is impracticable.

First, because it will be a means for class legislation and for political revenge. This fear of the people, which is the real essence of the contention, is similar in character and as groundless as the apprehensions of the framers of the constitutions in 1787. Our national senate and electoral college are results of their fears. To-day, our electoral college is only a form; even nominations will be made by a direct primary in 1916. The new amendment to the constitution provides for direct election of senators. The Senate, the check upon the people's representatives, has become the servant of the people. One hundred and twenty-six years of experience have proved that the people are not to be feared.

Two specific cases will show that the people are really to be depended upon and not feared. The first case is that of Judge Wanamaker in Ohio; the second is that of a judge mentioned by James O. Reed, Senator from Missouri. These judges had one thing in common,—they were unswerving in their devotion to justice. Naturally, both gave the decisions contrary to public opinion. The punishment meted to these judges was re-election, while all other candidates of their respective parties were defeated. The people are slow to suspect, slower to condemn; but act with lightning rapidity when once it is clearly shown that a wrong has been committed. In reality the people are not hasty, but slow in thought; on the other hand, though, they are quick in action. This accounts for the erroneous judgment that the people resort to political revenge.

It is further alleged that the recall of judicial decisions

is impracticable, because the people are not educated enough to vote intelligently upon constitutional questions. This seems inconsistent with our form of government, where ignorance of the law excuses no man. A person must know the intricacies of statute law, yet still be ignorant as to the meaning of the general law. This contention seems more unjust when we remember that the people adopted these various constitutions. The people surely know what the constitutions mean, when they themselves made their own constitutions.

In states where proper methods have been used to inform the people upon the questions to come before them, and where the proper system of submitting the questions is used, the vote is an intelligent vote. By proper methods of informing the people, I mean, that the school system is such that the principles of good government are taught in the schools; that the papers of the state, both farm and newspapers, deal with the questions of the coming elections; and, most important of all, that the state sends pamphlets, dealing with all questions to be voted upon at the next election, to every voter in the state. These pamphlets are nonpartisan discussions of both sides of all amendments or measures to be submitted to the popular vote. By proper system of submitting questions, I mean that all amendments shall be voted upon by the people at the next general election following the proposal of these amendments. In New Jersey and Pennsylvania five years must elapse from the time of the proposal of amendments and their submission to the vote of the people. This is a system

which is not proper. There are several other states of the Union which have such restrictions.

I wish, Honorable Judges, to cite you several cases to show that when the system of informing and submitting was correct, the people did vote intelligently upon constitutional questions. In 1908, two amendments were submitted to the people of Missouri. The first amendment, having to do with the initiative and referendum, was adopted by a majority vote of 40,000. The second amendment, providing for an increase in the salaries of the legislators, was defeated by 40,000 votes. The discrepancy of 80,000 votes between these measures proves that the people did not vote as a herd, but individually and with discrimination. Under the initiative in 1904, a local option liquor law was adopted by the people of Oregon by a vote of 43,316 to 40,194. Two years later the opponents of the local option law proposed an amendment in their interest, and this was defeated by a vote of 35,297 to 45,144. It will be noticed that in the first instance the issue was affirmatively presented and in the second instance negatively stated with a view of befogging the people; but the popular expression was the same at both elections. In South Dakota, the lax divorce law was creating sentiment which demanded that the state legislature pass a more stringent divorce law. The legislature did so, and the special interests that were making fortunes in the divorce business sought to have the action repealed, but the people showed their intelligence and upheld the legislature. Still another case was the legislative appropriation bills of Oregon, which provided for



appropriations of \$125,000 to the State University and of \$90,000 to the National Guards Armory. These two bills were referred to the people and the people opposed the unnecessary bill appropriating money for an armory, and favored the bill of increased appropriations to the University. The votes of the people in all these cases were intelligent votes, and proper methods had been used to inform the people.

Out of 64 amendments submitted in Oregon in nine years, only two have been referred to the people twice and these two received the same vote ultimately. During the years from 1899 to 1908 there were 474 amendments proposed in all of the states of the union; 299 were adopted and 175 were rejected by the people. I challenge my opponents to give 5 per cent., or even 3 per cent., of these which show an unintelligent vote of the people. These cases show the true ability of the people to vote intelligently. The most subtle charge against the recall of state judicial decisions, because it has the semblance of truth, is that the people are not sufficiently interested in questions involving constitutional issues. With a long list of votes upon constitutional amendments, our honorable opponents try to show that people do not care for these questions. Two reasons will explain this apparent disinterest. A close analysis of these state constitutional amendments will show that the great majority of them are really legislative acts in garments of constitutional amendments. For instance, the case mentioned above, where the people were called upon to incorporate into their constitution

an amendment to increase the salaries of the legislators. This should not be a constitutional amendment. Disinterest in such an issue is not disinterest, but a moral protest against legislators who shirk responsibility, trying to throw it upon their constituents.

A second reason explains the discrepancy between the vote upon officials and upon constitutional questions. No means has been provided, except in Oregon, whereby the voter may know exactly what the vote stands for. A bulletin issued in Oregon giving the amendment in exact language, and arguments pro and con, is one of the leading reasons why that state is a model in respect to her system of direct legislation.

With these disadvantages, namely, legislative acts under the guise of constitutional amendments and a lack of information, the people have voted with interest on vital questions, when cognizant of the real issues as the following table, taken from Dodd's "Revision and Amendment of State Constitutions," will show:

Context of Amendment	Year	State	Vote for Governor	Vote on Amendment	Result
New Constitution .....	1901	Ala.	162,550	197,347	Adopted
Drainage Taxation.....	1906	Fla.	21,954	23,558	Rejected
Suffrage Restriction.....	1908	Ga.	125,967	120,228	Adopted
\$20,000,000 bond issue for deep water way .....	1908	Ill.	1,169,330	887,699	Adopted
Suffrage Restrictions.....	1905	Md.	86,381	174,513	Rejected
State Board of Assessors for taxation of Corporations ....	1900	Mich.	548,214	497,485	Adopted
New Constitution .....	1908	Mich.	541,748	375,488	Adopted
Initiative and Referendum....	1906	Mon.	56,041	42,990	Adopted
Increasing the number of Supreme Judges .....	1908	Nebr.	262,739	230,479	Adopted
Constitution.....	1907	Okla.	257,267	253,392	Adopted
Woman Suffrage .....	1906	Ore.	99,445	83,977	Rejected
Payment of poll tax and holding receipt as a requisite for voting	1902	Texas	309,150	308,398	Adopted

This charge of disinterest does not bear careful analysis. It is only apparent and not real. It is rather a protest against the shirking of duty by state legislators.

I trust, Honorable Judges, that I have proved to you that the recall of state judicial decisions is practicable; first, because, where the proper system is used, the people will vote intelligently and discriminatingly on constitutional questions; and second, because, when properly informed concerning the issues, the people are vitally interested in such questions as will come up under the recall of decisions.

But the recall of state judicial decisions on constitutional questions is not only practicable, but it is absolutely correct in principle. The strongest opposition to the recall of judicial decisions is from those who maintain that this new proposal is not founded upon sound governmental theory. It is argued that, as a time-long policy, it would destroy our present form of government. First, that it would degrade our constitution, bringing it to the level of legislative acts; and second, that it would destroy the independence of the judiciary.

It would degrade our constitution, maintain my honorable opponents, because it would destroy our system of checks and balance. Our government is composed of three branches: the executive branch, the legislative, and the judicial. Each has checks upon the others, except that there is practically no check upon the decisions of the supreme court. We challenge the negative to state one check upon state judicial decisions upon constitutional questions. Unchecked, the judiciary has

almost absolute power. A hypothetical case will illustrate. Some reform may be agitated; after due deliberation it is enacted into a law by two houses of a legislature and by receiving the signature of the governor. In a test case it comes before the supreme court. Now a test case may show only a partial working of the law, yet the law is reviewed upon the basis of a single case and not as a general law. Still, suppose that four justices are positive that the law is constitutional; four think otherwise. The ninth justice is vacillating and is not sure. He must make a statement; he finally says that the law is unconstitutional. This justice decides the case. Five justices have more power than four others of equal ability, a governor and two houses of a legislature. This case is illustrated by the income tax law passed by Congress in 1894. In a test case, April, 1895, the Supreme Court declared that the law was constitutional by a vote of 5 to 4. A month later, May, 1895, Justice Shiras changed his decision, his vote making the law unconstitutional. Eighteen years later we have an amendment adopted changing our constitution to conform to the dictates of the supreme court. Such power is inconsistent with a democratic form of government. It must be checked. Who better than the people can exercise a check upon the judiciary? The recall of state judicial decisions will not destroy our system of checks and balances, but will add a much needed check, as the above-mentioned case shows.

In order that our constitution may not be degraded,

it must have elasticity ; it must be a ready tool for times of stress, which always come to every nation. Liberty, life, and equality are before constitutions ; and, unless the constitution helps us to maintain these inalienable rights, it will fail. Take, for example, the Dred Scott Decision in 1857. It was opposed to human rights, yet the constitution made it paramount and gave the people no recourse except to change the constitution. In that case the constitution was disregarded and the decision recalled by the people in four years of terrible civil war. The recall of judicial decisions provides a method whereby the state constitutions will be safeguarded. Times of stress may destroy a constitution, unless it is a means to maintain the right. This safeguard, alone, gives the recall of judicial decisions a right to be incorporated in the constitutions of the various states, that cannot be denied.

The second contention, that the recall of state judicial decisions will destroy the independence of the judiciary, is a case of an abused phrase. The independence of the judiciary is an irrelevant matter, as the recall of judicial decisions does not interfere with the duties of a judge. Let us first ascertain what the phrase, independence of the judiciary, means. A man, when acting as judge in suits between men and when trying a defendant, as to whether or not he has transgressed the law, must be independent, uninfluenced except by the law and by justice. In this country, judges have a second duty : to declare whether or not a law is constitutional and to interpret a law where it seems vague. This power was

given as a check upon the other branches of government. It is political and not judicial. We would check a judge's political power as an interpreter, but leave inviolate his independence as a judge. We would check his absolute political power. The independence of the judiciary is, therefore, an irrelevant matter, having no part in this discussion.

This measure may secure for the judiciary even a greater independence than it has ever had before. Precedent is the only master a judge has. Unless for great provocation, a judge will not render an opinion contrary to precedent, fearing to be charged with being an iconoclast. Could the people say, "He is right in disregarding precedent," then the judge would rather render opinions conforming to justice instead of precedent.

This measure provides a method of harmonizing the rights of the individual with the rights of society. No one will deny that our constitutions are individualistic. They are outgrowths of the Bill of Rights. The model of our state constitutions is the national constitution, written in 1787, by men of property, whose main contention was that the individual had certain inalienable rights. At that time this country had practically no factories, no monopolies, no railroads, no crowded cities giving rise to questions of social relationship. Since then, we have passed through an industrial revolution. To-day, the crowded city, the factory, the monopoly, all show that society has rights as well as the individual and that these rights must not be disregarded. Individual rights and society rights have come into conflict

and the people must be the final arbiters. The case of Sarah Knisley will illustrate. This girl had an arm taken off in the machinery of one of our big factories. The court decided against allowing the girl damages, because she had waived her rights for redress in a contract with the corporation. The viewpoint of the members of the corporation was individualistic;—they based their decision upon the rights of contract. The case has another aspect. Did the girl enter into the contract of her own free will? or was she compelled to by reason of economic necessity? The next question is one of justice. Has any business the right to cast its responsibilities upon society? This girl must become a public dependent, for she is unfit for work. The business should support the girl as a part of the expense. This girl is forced to gain a livelihood, by legal means, if possible; but illegal, if necessary. Should not the people be final arbiters to say whether the right of contract should be invoked to add another criminal to society. Another question arises. This girl becomes an easier victim to disease. No person is safe until all people are free from disease. Then what right has a judge to add to society another person prone to disease, because she cannot protect herself. This case shows that our constitutions demand social interpretation. The people must be the final arbiters in this interpretation. The judges cannot, because their viewpoint is individualistic.

The nearest approach to a provision for the rights of society in the constitutions of the various states is the police power. Justice Holmes, in a unanimous decision

of the supreme court in 1908, defined the police power in the following manner: "The police power extends to all great public needs. It may be put forth in aid of what is sanctioned by usage or held by the strong and preponderant opinion to be greatly and immediately necessary to the public welfare." Under this power, the legislatures may pass for social betterment. These laws will be constitutional because they are favored by the strong and preponderant opinion. Then, the only reliable method to test the constitutionality of a law passed under this power is to learn what is the strong and preponderant opinion. The only way to find out what is the public opinion is to test it at the ballot box. The supreme court can only guess. Consulting each voter at the ballot box would be scientific and business-like. It would justify the amending of the constitutions of the various states to provide for the recall of state judicial decisions on constitutional questions by popular vote.

Honorable Judges, we, the affirmative, have shown that the state judiciaries are in need of reform. First, because our present system of checks and balances does not check the state judicial decisions on constitutional questions. Second, because the various state courts have usurped legislative power. Third, because capital has frequently had influence upon the decisions of the state supreme courts. Furthermore, we have shown that the recall of state judicial decisions is practicable. First, because the cost will be exceedingly moderate. Second, because the people will vote intelligently upon constitu-



tional questions. Third, because, when properly informed, the people are not indifferent. Lastly, we have shown that the recall of judicial decisions is correct in principle. First, because it will not degrade the constitutions to the level of statutory law, but in turn will safeguard the constitutions. Second, because it will increase, instead of destroy, the independence of the judiciary. Third, because it will provide a method of harmonizing the rights of the individual with those of society by supplying a safe method of securing the "strong and preponderant opinion" of the general public. Since, Honorable Judges, the judiciary is in need of this proposed reform, since the recall of state judicial decisions is practicable, and since it is correct in principle, we maintain that the constitutions of the various states should be so amended as to provide for the recall of state judicial decisions on constitutional questions.

AFFIRMATIVE REBUTTAL, W. A. SUMNER

Honorable Judges, Ladies and Gentlemen: My honorable opponent made the statement that the people would be unable to read the pamphlets on account of the great number of pages in them, and the lack of time of the voting public. My opponent was referring to this pamphlet sent out by the state of Oregon to its voters. Yes, we shall admit that there is a great number of pages in this pamphlet, but we refer you to the vote of the people of Oregon on the amendments referred to them. Those votes, as I proved in my main speech, were intel-

ligent. Does that not seem to prove that the people do study these pamphlets?

My opponent further said that we need experts, or specialists, as we should have if we were building a house, and that the judiciary furnishes us our specialists. We grant that. If we were going to build a house, though, we would employ an architect to draw the plans and do the specialist's work; but, after those plans were drawn, we should reserve the right to accept or to reject them. That is just what we maintain we should do with our judiciary. My opponents, furthermore, did not show that the results of the vote of the people of Oregon were bad, nor did they answer my challenge question demanding that they show where the people of the various states voted unwisely upon the amendments submitted to them, resulting in five per cent. of poor decisions by the people.

On account of these cases which I have cited to you and on account of the failure of my opponents to prove that the people have voted unintelligently on similar measures, we maintain that we have proved that the people, under proper conditions, do vote intelligently.

My second honorable opponent defied us to show even eight or ten cases where the recall of judicial decisions would work. Let me cite you a dozen instances: 1. The Morgan case in Colorado, 1899. 2. The Mary Maguire case in California, 1881. 3. Commonwealth vs. Hamilton, in Massachusetts, 1876; mark you, in Massachusetts, the state that my opponents claim has the

best judiciary of any state in the Union. 4. Ritchie vs. People, Illinois, 1895. 5. Frorer vs. People, Illinois, 1892. 6. State vs. Loomis, Missouri, 1893. 7. The St. Louis Boodlers' case. 8. Johnson vs. Goodyear Mining Co., decision. 9. Republic Iron & Steel Co. vs. Indiana, 1903. 10. A half dozen or more cases in New York State alone: the Ives case; the Bake-shop case; People vs. Williams, 1907; and the Tenement House Cigar Factory case. And here is a list, which I could read had I the time, of nearly a hundred other bad, conflicting state court decisions, most if not all of which might readily have been remedied by the recall of state judicial decisions. These cases certainly refute the contention of my second honorable opponent that there is no need of the proposed reform.

I shall admit that in New Jersey the people have been indifferent to voting on constitutional issues. But my opponent failed to tell you why. In New Jersey, five years must elapse after an amendment has been proposed before a vote is held on that question. Pennsylvania has the same slow method. In Vermont, ten years must elapse after an amendment has been proposed before a vote is held on that issue. The fault in these instances lies not with the people, but in the poor system.

Again, Honorable Judges, we agree with our opponents that Massachusetts has the best judiciary of any state in the Union. But suppose that in Massachusetts a good judge should render an honest, bad decision, how could that mistake be removed from the statutes? That bad decision would stand. Hence, we maintain

that even Massachusetts, in spite of the high standard of her judiciary, needs the recall of state judicial decisions just to remove honest mistakes of good judges.

Lastly, Honorable Judges, let me call your attention to the fact that my opponents have either purposely ignored or unintentionally overlooked the main issue of the cost of the system. For this big oversight, not to mention other reasons, I question whether my opponents can win this debate.

Since there is need of reform in the state judiciaries, Honorable Judges, since the recall of judicial decisions is practicable, and since the recall is correct in principle, therefore, we maintain that the constitutions of the various states of the Union should be so amended as to subject the decisions of the state supreme courts on constitutional questions to recall by popular vote.

*COLORADO AGRICULTURAL COLLEGE vs.  
KANSAS AGRICULTURAL COLLEGE*

FIRST NEGATIVE, M. D. COLLINS, '13 K. S. A. C.

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The recall of judicial decisions is merely a political outcry resulting from the five distinct classes of cases, namely: 1. Income tax decisions. 2. Railroad rate decisions. 3. Granting injunctions in labor disputes. 4. Decisions of Standard Oil and Tobacco Trust cases. 5. Holding acts of legislatures void. In each of these cases the evil could speedily have been remedied, and in fact in many cases the particular evil was remedied, by an

act of legislature or by a constitutional amendment. Both of these methods are speedier and safer than the more radical proposed recall of judicial decisions.

I maintain that my honorable opponents must prove that these five classes of cases cannot be speedily and safely remedied by acts of the legislatures or by constitutional amendments before they can justly claim that we need the suggested reform. Then, I maintain also, that if my opponents do prove this point, and we on the other hand show that the proposed system is impracticable, it still should not be adopted.

Let us consider first the practicability of the recall of state judicial decisions. We claim the system is impracticable for the following reasons:

1. It will foster class legislation.
2. The people are too indifferent to such measures as will be submitted.
3. The system will be too expensive.
4. The people will not be able to use the recall of judicial decisions effectively on account of inherent evils of the system.

I maintain, first, that the recall of state judicial decisions will foster class legislation. For instance, a union laborer may have a just decision rendered against him that would affect the labor union organizations. The labor union would then influence all of the union voters of the state to vote for the recall of the decision, thus making class prejudice, which might be for the betterment of the union and yet be a detriment to the state as a whole. Let me cite another case. Suppose

that a judge in one of the Southern States should render a just decision, but one that favored a negro. The race prejudice is so strong in the South that the decision of that judge, although perfectly just, would more than likely be recalled. I challenge my opponents to show that, under the proposed reform, class legislation will not arise in the South in connection with the race problem; to show that class legislation will not be a serious problem in strong labor union states, such as Pennsylvania; that class legislation will not arise in connection with the liquor problem in such states as Missouri, New York, and Wisconsin.

We have hitherto believed that the people should adopt a broad and general rule, the constitution, and that all cases arising under it should be left to a third, disinterested party. The recall of judicial decisions would never have been thought of as a political measure if it was not for the partisan interest a certain class of people take in cases which arise like the Ives. Under the operation of this proposition, most of the cases would be of an economic nature and it might happen that a large per cent. of the people would have a personal interest in the case. Take the case of an Old Age Pension or a Workingmen's Compensation act; it might happen that a large per cent. of the people would be personally interested in having the case decided their way. The interested class might be strong enough to carry the election and adopt a measure injurious to the people as a whole. If such a case should arise, it is asking too much of human nature to expect the voters to vote

against their own best interests. Again I ask my honorable opponents, shall we leave the final interpreting and deciding on these cases to those persons who are personally interested in the case?

In telling how jokers creep into the laws, Prof. Beard says, "Some of the most important public laws, designed to achieve large reforms of one kind or another, are drafted without remuneration by persons, outside of the legislature, who are interested in the proposed legislation." This is the class of legislation upon which the affirmative is basing its argument. Every one of the laws which they can cite is one in which some great interest or interests are involved. The labor unions, the corporations, the railroads, and every other special interest will, if possible, influence legislation in its own behalf and insert these jokers "which the legislature with all of its boasted intelligence fails to detect."

In Oregon, where my opponents claim that direct legislation has worked successfully, class legislation has already become a serious problem. In ten years, the people have voted three times on equal suffrage, and four times on the liquor question; yet neither problem is settled. The grange has been incessantly fighting the railroads; various fishing industries have proposed bills to injure the trade of competitors; over a dozen local county fights have been brought before the voters of the entire state. Class legislation has forced the people to vote also on some ten or a dozen new-fangled ideas of government, ranging from the abolition of the state senate to a vote twice on the Henry George single-tax

proposition. The second time the single-tax amendment came up, it passed, although it carried a "joker." In view of these facts, honorable opponents, can you prove to us that the recall of judicial decisions will not foster class legislation?

Let us next consider the second of these issues: Are the people really interested in such measures as would be submitted? Our question this evening deals with constitutional issues; therefore, to show you that the people are not interested in such questions we wish to cite you instances of votes upon some proposed constitutions and constitutional amendments. During the last few years constitutions have been adopted in the states of New Mexico, Arizona, and Ohio, and in these three states an average of less than fifty per cent. of the qualified voters expressed themselves at the polls either for or against the proposed constitution, the document that was to be the foundation of all future state legislation. Think of it, friends, over one-half of the voters indifferent, not to some interpretation of a law, but to the adoption of the state constitution. What per cent. do you think would vote on some minor law?

Our opponents may claim that there is always a certain per cent. of the voters who do not take an interest in the affairs of the government, but that those that do will express themselves on these questions. Such assertions, however, do not agree with the facts; for, from 1899 to 1908, constitutions have been proposed in the states of Rhode Island, Connecticut, Wisconsin, and Iowa, and in those states an average of only forty-six



per cent. of the vote cast for governor was cast on the proposed constitutions. Does that not show that the people are indifferent to constitutional issues?

Furthermore, we are indifferent not only to adopting constitutions, but we are still more indifferent to amending them. On amendments proposed from 1899 to 1908 in California and Washington, two of the states where it is claimed that the people are so enthusiastic over local government, in those two states only thirty-eight per cent. of the votes cast for governor was cast on the proposed amendments. Think of it. Sixty-two per cent. of the people who are interested in government and who will vote to secure honest, efficient officials to enact and interpret their laws for them are not interested and do not care to decide upon those laws themselves. Furthermore, over the whole United States less than fifty per cent. of the vote cast for governor from 1899 to 1908 has been cast on amendments proposed during that time. If such a large per cent. of the voters are indifferent to these vital questions, what per cent. do our honorable opponents think would vote on the interpretation of some minor law? We defy them to prove that a representative vote will be cast on these judicial decisions.

Again, the people are not only indifferent to constitutional questions, but they are still more indifferent to those questions that pertain to the judiciary. In New Jersey, six amendments were proposed relative to making changes in the judiciary and only twelve per cent. of the vote cast for governor was cast on these proposed

amendments. Absurd, eighty-eight per cent. of the people indifferent! In Montana and Delaware only one-half the votes cast on ordinary amendments was cast on those amendments pertaining to the judiciary.

We have cited instances from all over the United States and shown that the people do not care to vote on these constitutional questions. But why consider all these constitutions and constitutional amendments, when our question says recall of judicial decisions? Simply because our subject deals with the recall of constitutional issues; and we claim that if such a large per cent. of the people is indifferent to these constitutional questions submitted directly for their consideration that so large a per cent. will be indifferent to those submitted under the recall that we could not secure a practicable vote. And if our opponents are to show that the recall will be practicable, they must show that a system is practicable which permits twenty-five per cent. of the people to recall the decisions of a man endorsed by fifty to seventy-five per cent. of the people; for twenty-five per cent. of the vote cast for officers is a majority of the votes ordinarily cast on these questions. We defy our honorable opponents to show a single business organization to-day that will allow twenty-five per cent. of its stockholders to override the decisions and rulings of a man elected and endorsed by sixty to seventy-five per cent. of the same stockholders. And yet that is the very proposition that our opponents would have us adopt for the various states.

Not only would the recall of judges be impracticable

on account of class legislation and because the people are too indifferent; but, in the third place, the cost would be too excessive. Our opponents may claim that the cost is a very small item and will not be large enough to affect the use of the recall; but let us consider the cost of the initiative and the referendum—systems very similar to the recall of judicial decisions. In Oregon, where the cost has been placed the lowest that it is possible, it costs the state the sum of one cent per voter per measure for each measure that is presented. Figuring on that basis, it would cost the state of Kansas, since we have equal suffrage, about \$10,000 for each measure submitted; in the state of New York it would cost \$18,000; in Pennsylvania, \$10,000; in Missouri, \$8,000; in Illinois, \$12,000. Remember, also, that this cost must be paid no matter whether the issue that is brought up is one that is of interest to the whole people or simply concerns a small portion of the people.

But the cost to the state is not the only thing that must be considered. The cost of circulating the petitions is as great as the cost of conducting the election after the petitions are circulated. Our opponents claim that they want this new system for the poor laboring man, that they would give him a chance to secure justice. We ask them how is the poor laboring man to secure money to circulate these petitions. Does he have the sum of \$12,000 to \$15,000 to spend merely to bring his case before the people? This system is more expensive than our present system and yet our opponents claim that the moneyed interests have the power now because

of the cost. It takes not only money, but it takes time also to circulate these petitions. We defy our opponents to show where the poor working girls and laboring men will have the time or the money to circulate these petitions. That is where the system is impracticable. It merely gives the corporations and moneyed interests one more grasp on our judicial system and places the poor laboring men one step lower. We claim that it would be impracticable not only because the cost to the state is excessive, but also because the cost of circulating the petitions is so great that the working class could not use the system.

Lastly, the various states should not adopt the recall of judicial decisions because, if adopted, the people could not use it for their best interests. It is an admitted fact that our government is too complex for the average voter to inform himself on all phases. For that reason we have selected certain men to enact our laws and have chosen other men especially qualified along legal lines to apply those laws in justice. Is it unreasonable to claim that we, the average citizens, are as competent as are the judges, who, after being especially qualified along legal lines, spend all their time deciding upon legal and constitutional issues. We have only a limited amount of time to give to matters of government and have already too many questions to decide at the polls. Why then place a still greater burden on ourselves?

Just consider what voters have to decide upon in some of the states. For instance, in South Dakota in 1910 the official ballot was five feet, six inches long and ten

inches wide; it contained 16,000 words besides the regular lists of candidates. Now, how many of you people think you could have gone to the polls and cast an intelligent vote on that conglomeration? Again, take an instance in Oregon. Last year in Oregon the voters had to decide upon forty-three different measures. In order that the voters might vote intelligently, a book of two hundred sixty-three pages of fine print was sent out to each voter. Think of what was before the voters in Oregon last year. They had to read and not only read but study two hundred sixty-three pages of fine print discussing forty-three different measures; they had to decide upon the merits of three or five political platforms; they had to decide upon the character of a score or more of candidates for offices; now propose the recall of several judicial decisions, and what kind of vote can one expect? Anything but an intelligent vote. It is not just one or two judicial decisions upon which voters must decide as our opponents would have us believe, but it is those decisions in addition to all that is already required.

It simply means that voters will have more questions to decide than they can properly consider. They will have to neglect something; and, naturally, they will neglect those that are least interesting to them. We showed to you that the people are not interested in judicial questions and cited you the instances of several states; moreover, how many of you people ever stop to read the legal arguments that you see in the newspapers? In the first place we seldom find them there. Why?

Because they are dry and uninteresting to the average voter. Since these questions are not interesting, we as citizens will not prepare on them; that means that we will not cast a discriminating vote. That such is the case when we have too much to decide is shown by various instances. A very popular or unpopular measure has influenced the vote on other measures. For instance, in Oregon in 1900 five amendments were rejected, among which was one proposing to permit free negroes to enter the state. That amendment was rejected "not on its merits," as one person said, "but because of the company in which it was found." The other measures were unpopular. Another typical instance occurred in Pennsylvania. There the unpopularity of the liquor amendment caused the defeat of a beneficial suffrage measure. The same thing has occurred in Missouri, South Dakota, Texas, and other states. We voters do not cast a discriminating vote.

There is still a fourth reason why the recall of judicial decisions is impracticable; namely, the system is so arranged that it cannot be used intelligently. For instance, a great many of our laws that are declared unconstitutional are so declared because they are poorly worded or contain jokers. Under our present system these laws can be taken up by the legislature, the objectionable part eliminated, and the principle reenacted in a constitutional law. We defy our opponents to show where any similar action can be taken under the recall of judicial decisions. Suppose a law contains a principle and a joker and is declared unconstitutional, because the joker

is in conflict with the constitution; under our present system the law is taken up by the legislature, which can alter the law leaving the principle enacted. Thus we have gotten rid of the joker and at the same time retained the principle. Now what is the course under our opponents' plan. It is this: No matter if voters had ever so much time, which they do not, and if they voted ever so discriminatingly, which is not the case, they could not alter the proposition that came before them. They must adopt the whole or reject the whole. If they reject the joker, they reject the principle; if they adopt the principle, they adopt the joker. We challenge our opponents to show under this new system how we can get rid of a joker and at the same time retain a principle.

Honorable Judges, I trust that I have proved conclusively to you that the recall of state judicial decisions will foster class legislation; that the people are too indifferent to such measures as would be submitted; that the cost of the system is excessive; and that the system has such inherent evils that, if adopted, the people could not use it for their best interests. Hence, the recall of judicial decisions is impracticable. My colleague will prove to you that the system is wrong in theory and that there is practically no need whatever for the proposed reform, which is so narrow in its scope that it can affect, in reality, only a very small per cent. of state judicial decisions on constitutional questions.

SECOND NEGATIVE SPEECH, T. J. HARRIS, '14 K. S. A. C.

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: My colleague has shown that this proposed change is impracticable. I will prove that it should not be adopted because it is wrong in theory and because it is unnecessary.

The recall of judicial decisions would degrade and finally destroy our constitution. Let us consider first of all the effect upon the state constitutions, for this proposition is a method by which the constitutions could be amended at any time by a simple majority vote. Suppose the legislature of the state should pass a law which is clearly in conflict with the constitution. The supreme court would declare such law unconstitutional; but under the recall of judicial decisions this law could be submitted to the people of the state, and if they desired it, they could adopt it in spite of the constitution. It must therefore supersede or amend the constitution of the state.

It may be urged that we need a method by which changes may be more easily and quickly adopted; but, under the present system, it is not hard or difficult to make changes. Furthermore, amendments in all states require more than a simple majority popular vote and hence are safeguarded. They must first pass the legislature and be discussed and considered there. When an amendment is finally submitted at an election, the people vote on a definite and clear-cut amendment which shall change the constitution in some respect and shall remain



till another amendment adopted in a similar manner shall supersede it. Under the recall of judicial decisions, the people adopt one law by saying it is not contrary to the constitution; and perhaps that law has in it some clause which affects another part of the constitution. The people have adopted an amendment almost unconsciously. Perhaps they adopt a law this year and so amend the constitution and the next year adopt another law which will make the same part of the constitution mean another thing. The same clause means different things at different times. We can have no respect for a document that is so easily and quickly changed, a document that means one thing to-day and another thing to-morrow.

We think of the state constitutions to-day as higher than legislative acts, because they are derived from the people themselves. Acts of the legislature are only acts of the agents of the people. Under this proposed change the people adopt an ordinary legislative act and make it of equal authority with the constitution. I ask my honorable opponents, under such a system what would be the distinction between constitutional and statutory law?

The recall of judicial decisions means adopting a method by which amendments may be easily and quickly adopted, almost unconsciously adopted. Such amendments will be without regard to consistency or the unity of the constitution, and, finally, by destroying the distinction between constitutional and statutory law, we shall degrade and eventually destroy the constitution.

The recall of decisions is further wrong in theory, because it will scatter responsibility. Our government is

first of all a representative democracy, the first principle of which is that of responsible representation. We elect representatives and we make them responsible for their actions. If a man should fail, we know at once who is to blame and can punish him accordingly. Suppose that the legislature should pass a poor law or refuse to pass a much needed law. The people at the next election would refuse to re-elect the negligent members of the legislature. Responsibility is definite and fixed. If we scatter the responsibility among a half million or a million voters of the state, it is not fixed. No one is responsible. Responsibility for bad decisions is at present fixed on the members of the supreme court, and if any judge makes a mistake, the people know at once who made that mistake and can hold him responsible. When we make all the voters of the state responsible and they through lack of intelligence or through indifference vote wrongly, it is impossible to punish anyone.

This proposition is therefore a step away from the modern tendency of specialization, which is taking place all over the world. It is a step away from the tendency which has given us the commission form of government; a step back to the days when the people tried to do everything and failed.

The third reason why the recall of judicial decisions is wrong in theory is because it will destroy the independence of the judiciary. When we speak of the independence of the judiciary, we mean that the power which interprets and decides laws shall be as free as possible from outside influence. Judges shall decide

strictly according to the law and the evidence and shall not be influenced by any other consideration.

This proposition makes the people of the whole state the final authority on the interpretation of laws and constitutions. The affirmative speakers say that the people have adopted a constitution and therefore they are competent to interpret its meaning. We maintain that a constitution is a contract between all the citizens of the state and it gives the broad and general principles underlying the relations of one citizen to another. In any case which might arise there must necessarily be two parties, and to say that this case should be decided as the larger party wishes is to make of the judge an advocate, not a judge. When applied to specific cases of suits between individuals, or between a corporation and an individual, who generally represents a class, the constitution can be interpreted impartially only by a judge that is independent of any class or corporation influence.

The recall of judicial decisions is not only wrong in theory, but there is no need for such a reform. The recall of the decisions of the state supreme courts on constitutional questions is a method of amending the constitutions of the states, and it is not needed, as present methods are adequate. Theodore Roosevelt, the originator of the recall of judicial decisions, said, in a recent article in *Collier's Weekly*, "that the recall of a decision on a constitutional question, will, in effect, make the measure affected a constitutional amendment, limited to the specific part of the measure which was held by the court to be unconstitutional." Then, since the recall

of any decision on a constitutional question will make the measure affected a constitutional amendment, we, the negative, hold that the recall of decisions is unnecessary, because at present we have ample means for amending our state constitutions and do amend them frequently.

For instance, during the eight years from 1900 to 1908, there were 474 amendments proposed to all of the state constitutions. Of these 474 amendments, 299 were adopted. Does this look as if we needed another method of amending our state constitutions? But let us consider some of the states and the number of amendments proposed and adopted in each. In California, 51 were proposed and 34 adopted; in Colorado, 12 out of 17 proposed were adopted; in Kansas, 7 out of 10; in Louisiana, 41 out of 50; in Michigan, 17 out of 22; in Missouri, 19 out of 30; in New York, 14 out of 14; in Oregon, 10 out of 22; in Texas, 7 out of 17; in Wisconsin, 8 out of 8; and so on through the entire list of states we find that the people could and did amend their constitutions. Therefore, we hold that the recall of state judicial decisions on constitutional questions is unnecessary.

Furthermore, the recall of judicial decisions would be more cumbersome than our present method, and hence should not be adopted. At present, in all states but two, amendments are proposed by the legislatures and then adopted or rejected by the people at the next general election. And, in these two states, the amendments are proposed in one legislature; they then become issues in the next election and are ratified or rejected by the next

legislature, which is elected on those issues. So, in reality, all amendments are adopted by the people. In recalling a judicial decision, on the other hand, petitions must be circulated and 10, 15, or 25 per cent. of the qualified voters must sign them; then the people vote on the issue, or issues, at the next general election, the same as upon amendments to the constitutions. From this comparison, one can readily see that the work of recalling a decision is more cumbersome than that of amending the constitution, on account of the great trouble and expense of circulating the petitions. The larger the percentage of voters required to sign the petition, the more cumbersome the system becomes and the greater the cost; on the other hand, the smaller the percentage, the more opportunity for class legislation. Therefore, we hold that the recall of state judicial decisions is unnecessary, as it is another method of amending our constitutions; also, our present means are adequate and much better than the proposed scheme of recalling judicial decisions.

We maintain, moreover, that the recall of judicial decisions should not be adopted, because the people do not want it, as is clearly shown by their vote on the amendments proposed and adopted affecting the judiciary from 1900 to 1908. There were 53 amendments proposed concerning the judiciary; 27 of these were adopted, 23 of which increased the powers of the state judiciaries and made them more independent of the will of the majority of the people, and not more dependent, as the affirmative would have them.

These facts certainly show that the recall of state judicial decisions on constitutional questions should not be adopted, because it is another method of amending the state constitutions; because present methods are adequate and not nearly so cumbersome as the suggested reform; and because the people do not want it, as is shown by their votes on judicial questions.

We, the negative, hold, furthermore, that the recall of judicial decisions should not be adopted because it will unbalance our present system of checks and balances. At present each department of the government acts as a check, or balance, upon the other branches. One of the most important functions of the judiciary is to check bad legislation, which may contain jokers, making a law contrary to the constitution of the state. But the affirmative may hold that there are not any laws that are poorly worded and that contain jokers. Let me cite what Senator Jonathan Bourne Jr., of Oregon, says in regard to poorly worded laws. "The bills," he states, "have been drafted by men who gave months of careful study to the questions involved. Nevertheless, when the measures came up for consideration, amendments were proposed, indiscriminately, by men who had not studied the subjects, and as a result, when finally passed, the bills bore slight resemblance to their original forms. Even the authors would not recognize them, and sometimes they were so inconsistent in their provisions as to be in direct conflict. Moreover, it was sometimes discovered, several months after the legislature adjourned, that some shrewd and unscrupulous legislator had cunningly in-

serted an amendment of the character commonly called a 'joker,' which the legislature with all of its boasted intelligence, did not detect." We hold that if the recall of judicial decisions is adopted, this check, which gives the supreme courts of the states power to declare laws unconstitutional when they are in conflict with the constitution, will be destroyed.

So we find that there is bad legislation, but what are the causes of it? Prof. Freund gives the following as some of the causes: "First, the absence of responsibility in the drafting of the laws, as any legislator may introduce a bill without assuming any responsibility whatever for it; second, the lack of expert advice in the drafting of the bills; and, third, the failure to confine the exercise of legislative power to measures shown by long experience to be wise and prudent though temporarily inconvenient or disappointing in the production of immediate results." And it is this latter class of legislation, upon which the affirmative is basing its argument. Prof. Beard also says, "The chief cause of bad legislation is the pressure exerted on behalf of sinister private interests seeking special favors at the hands of the legislatures." This is another class of legislation upon which the affirmative bases its argument.

Other causes of bad legislation are the haste and quantity of legislation passed by the legislatures. In an average session, all of the state legislatures in the United States pass 18,220 acts, not to mention those which are brought up and fail to pass. In one year there are on the average about sixty-nine laws declared unconstitu-

tional, or about one out of every fifty laws passed is declared unconstitutional. We, the negative, hold that the judiciary is entirely within the limits of what we might expect, in declaring these laws unconstitutional. With the causes and opportunities for bad legislation and with the passing of laws containing "jokers," many of which are contrary to the state constitutions, it is a wonder that the number of laws declared unconstitutional is not far greater. If the recall of judicial decisions on constitutional questions as applied to the state supreme courts is adopted, this check, which the judiciary has upon bad legislation, will be destroyed.

Again, even if the recall of judicial decisions were practicable, we hold that the number of decisions that could be recalled is not sufficient to warrant its adoption. An average state supreme court hands down 828 decisions in two years, only three of which decisions declare laws unconstitutional. Then, if the recall of judicial decisions on constitutional questions is adopted, only 3 out of 828 decisions handed down by the state supreme courts can be recalled. We, the negative, hold that this would not correct many of the evils, which my honorable opponents say exist in our courts to-day. Perhaps two of the three decisions declaring laws unconstitutional would be just and no one would want to recall them. Then the people would have the power and could exercise it to recall perhaps one out of eight hundred or a thousand decisions. No wonder my opponents have been obliged to go back twenty or twenty-five years to find their ten or twelve pet cases, all of which were cases in



which the special interests were involved. Then, since only 3 out of 828 decisions could be recalled, we hold that there is no need whatever to adopt such a radical measure as the recall of judicial decisions.

Honorable Judges, since the recall of state judicial decisions on constitutional questions is impracticable, since it is wrong in theory, since there is no need for such a radical change, therefore, we maintain that the proposed reform should not be adopted.

NEGATIVE REBUTTAL, M. D. COLLINS.

Mr. Chairman, Honorable Judges, Fellow Citizens: Among the instances of bad state court decisions, my first honorable opponent dwelt at some length on the Workingmen's Compensation Act decision in New York, which law was declared unconstitutional by the court. But he failed to add that the law contained a "joker" and that the same law, with the "joker" eliminated, was later repassed by the legislature and was then held by the court to be constitutional. When the supreme court of a state holds that a law is unconstitutional, the only sane remedies are to amend the state constitution or to repass the law with all jokers eliminated.

My opponents say, "The rights of the few may safely be left in the hands of the many." They maintain that the great majority of people will never be guilty of infringing on the rights of the minority. But I refer them to the number of cases in which the people of a whole community have taken part in lynching some man accused of a crime. They have refused this man the

right of any trial whatsoever, and yet these same people would be the last to do away with the right of trial by jury. In their saner moments when they stop to think about the matter they see the necessity of such a provision. It is not in the adoption of a broad and general rule of conduct, free from the passions and prejudices of a single case wherein the people fail. It is not in the adoption of such a broad rule; it is in its application to a case which affects the individual. It is in its application when it affects us that we fail. And I ask my honorable opponents what protection could the courts give if their actions could at any time be overthrown by a majority vote? You say this provision is to be used only in certain cases, under certain restrictions; but I ask of what value are restrictions on the majority when that same majority can amend the constitution containing such restrictions?

Honorable Judges, let me call your attention to the fact that my opponents have dwelt largely on the need of some judicial reform and on the theory of the recall of judicial decisions, but they have not presented a workable plan; they have not proved that the system is practicable. In the rebuttal speech of the affirmative, I should like to have my honorable opponent meet these main issues. Under the recall of state judicial decisions, how will serious evils of class legislation be eliminated? What new method can be devised to interest the 50 per cent. of voters that are now indifferent to such measures as would be submitted? In brief, I challenge my honor-

able opponent to meet the following contentions, which I trust that we have proved conclusively.

Honorable Judges, we, the negative, have shown: First, that the recall of state judicial decisions is impracticable, because it will foster class legislation; because 50 per cent. of the voters are totally indifferent to such measures as would be submitted; because the cost of the system is excessive; and because the system has such inherent evils in it that the people could not use it for their best interests. Second, that the recall of judicial decisions on constitutional questions is wrong in theory, because it will degrade the constitutional law to the level of statutory law; because it will scatter responsibility; and because it will destroy the independence of the judiciary. Third, that there is no need whatever for the proposed reform, because it is only another method, and a cumbersome method at that, of amending the state constitutions; because the people do not want such a system as is shown by their recent votes on state constitutional amendments affecting the various state judiciaries; because it would unbalance our present system of checks and balances and destroy the most valuable check that the judiciary has upon the other departments, the check of eliminating ambiguously-worded laws and "jokers;" and lastly, because the number of decisions that could be recalled, only 3 out of 828, is not sufficient to warrant the adoption of such a radical reform.

Since the system is impracticable, since it is wrong in theory, since it is unnecessary, therefore, we maintain

that the constitutions of the various states of the Union should not be so amended as to subject the decisions of the state supreme courts on constitutional questions to recall by popular vote.

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# **REGULATION OF TRUSTS AND CORPORATIONS**



# REGULATION vs. DISSOLUTION OF TRUSTS

## I

*The University of Colorado vs. { the Universities of  
Kansas and Oklahoma.*

On the evening of April 11, 1913, the University of Colorado won both decisions in its annual triangular meet with the universities of Kansas and Oklahoma. Colorado uses a squad system in preparing its debaters and no debater is allowed to take part in more than one intercollegiate debate each year. For several years Colorado has been very successful in winning debates, and now has an enviable record. The speeches given here received the vote of five out of six judges.

The subject of the debates, the Regulation of Trusts, is one of unusual interest at the present time. The Colorado statement of the question was as follows:

*Resolved*, That a policy of federal regulation should be substituted for the Sherman Anti-trust law.

The Colorado debates were collected and contributed by the Debate Coach of the University, Mr. John Gutknecht.



# REGULATION vs. DISSOLUTION OF TRUSTS

*COLORADO vs. KANSAS*

FIRST AFFIRMATIVE, CARL P. CLINE, UNIVERSITY OF  
COLORADO

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The question under discussion is "Resolved that a System of Federal Regulation and Control should be substituted for the Sherman Anti-trust Act." Perhaps no one problem is receiving more consideration at this particular time than the one that relates to a practical and effective method of regulating the industrial organizations known as "trusts. The vast amalgamations of capital which control practically every field of industry have been developing rapidly during the past two decades. Various attempts have been made to eliminate the attendant evils and in some cases to check their growth. We are debating at this time the advisability of repealing a law which has as its object the regulation of the industrial organizations. Some twenty-two years ago the general tendency of business to combine into large capitalistic organizations began to manifest itself; our legislators perceiving that such a condition would be attended by certain grave evils enacted the Sherman Anti-trust

law in the belief that it would afford a reasonably adequate protection. Its primary object at this time was not to regulate, but to prevent. It declared that all combinations in restraint of trade were unlawful and inasmuch as no business organization in the form of a trust could be created without the exercise of a restraint of trade this law declared its opposition to large capitalistic enterprises in no uncertain terms. Throughout this period of almost a quarter of a century the Sherman act has remained upon the statute books without a change in its provisions. Contrary to the expectations of the framers, this law did not prevent the growth of combinations of capital. On the contrary the period covered by the anti-trust laws is known as the trust period in American development. To-night we are arguing the advisability of repealing this legislation and substituting in its place some form of federal regulation and control.

It shall be the purpose of the affirmative in this discussion to show that the failure of this law, during the twenty-odd years of its existence, to prevent the growth and development of those industrial organizations which we call trusts has been due to certain misconceptions as to the policy which should be pursued, and also to certain inherent deficiencies in the method of the administration which the law provides. In other words, we believe that the Sherman act has not only failed but that it has failed for good and sufficient reasons. The affirmative bases its contentions, first of all, upon the fact that the policy which the Sherman act seeks to enforce in dealing with the trust problem is fundamentally wrong in prin-

ciple, and, second, that the means of administration provided by this law do not guarantee that the problems can be handled in an efficient manner. I shall consider the first of these, namely, the criticism of the policy which the law is seeking to enforce.

What may we consider to be the characteristic principle found in the Sherman law? For an answer to this question we turn to the terms of the law itself and the decisions handed down upon the cases tried under this legislation. Now the avowed intention of the Sherman Act at the time it was drafted was the preservation of a state of competitive effort. In substantiation of this we need only to review the debates on the trust question prior to the enactment of the law. In support of the contention that such is the present purpose of the act under discussion we find in recent decisions of our courts the fact that the object of the Sherman law is to restore that state of competitive effort which the same law failed to preserve some twenty years ago. In the two leading cases involving the Standard Oil and Tobacco Companies we find that the enforcement of this policy led to the so-called dissolution of these two companies in an attempt to restore competition. Since this is the policy which the law seeks to enforce the first natural consideration would direct itself toward a determination of the wisdom of restoring a system of competitive effort.

At the outset the affirmative is compelled to question the wisdom of the policy which has as its object the disintegration of large business organizations and the restoration of a state of competition. Let us not be un-



derstood to maintain that competition is at all times undesirable; but we do maintain that when industry in a particular field has developed beyond the stage of individual effort that the law which seeks to break up large industrial organizations and force the different parts into competition with each other is in direct opposition to the economic law which called the large industrial organization into existence. We base our criticism of this policy, first, upon the fact that it is a false and sham competition which has produced the amalgamations of capital known as trusts; and, second, upon the contention that these large organizations possess a greater business efficiency than is possible under a system of individual effort.

Now concerning the first—has competition given rise to these organizations? Competition means elimination and survival; competition means that those industrial organizations best fitted for the struggle shall survive while those possessing lesser efficiency must perish; it means that the business organization whose facilities are best adapted for the work it pursues and whose men possess a larger amount of business ability, foresight, and genius shall drive from the field all those organizations possessing a lesser degree of strength. It means as it has meant in every other field of human endeavor that superiority shall be recognized in a practical and effective way; it means the very state of affairs which now confronts us in the industrial world.

Trusts are not characteristic of America; they are found in every civilized country and their development

we must maintain has been the result of that system of competitive effort which the Sherman act is seeking to restore. This law failed to retain a system of competitive effort twenty-two years ago when we had but a scant dozen trusts. The affirmative may justly question whether the recent court decisions have restored a state of competition in the cases of the alleged trust dissolution, but, granting for the sake of argument, that this law has been and will be effective, that it will restore competition in every field of industrial activity, what is the proposition then that confronts the negative?

If competition is restored we return to the state of twenty-two years ago; business organizations will again manifest the tendency to develop into trusts, we shall again be confronted by all the evils of the last two decades and with such a condition before us what safeguards do the negative provide? Do they seek new forms of regulation and new methods of administration in dealing with the problem? On the contrary, by advocating the continuance of the Sherman act they seek to restore the state of twenty-two years ago and would safe-guard the public and regulate business organizations by the terms of the law which has failed absolutely to remedy the evil conditions of business during the last two decades.

The situation then is this—competition was a characteristic of business twenty-two years ago when the Sherman act was placed upon the statute books; it failed to check the development of trusts and monopolies at that time. To-day the law is seeking to restore the condition

from which we have just emerged, and, if competition is again restored, upon what grounds are we to believe that this same law which failed under these conditions in the past is to provide the necessary safe-guard for the future. Shall we wait another twenty-two years before an American Tobacco Company or Standard Oil Trust is brought to justice? If more dispatch, greater efficiency, higher perfection is to be had under the Sherman act in dealing with this problem, may we not justly assert that it devolves upon the negative to show from what source these elements of effectiveness shall spring. Therefore we of the affirmative contend that if this law is able to restore a system of competition, a fact which we do not believe, we shall then be confronted with the very conditions of the past two decades and a condition for which the Sherman act failed to provide an adequate remedy. We conclude further that it is competition which has given rise to the development of trusts and that the Sherman act, failing to prevent the development of such organizations at a time when competition characterized all branches of industrial activities, will fail again to prevent the very problem which now confronts us.

We criticise this policy of dissolution from another standpoint, namely, because of the fact that the trust is a more highly developed, a more efficient business organized than the individual enterprise. Mankind began to supply his needs first of all by a system of individual effort under which every individual manufactured all the products necessary to his existence. From that he progressed to the condition where an individual best fitted

for some particular work was allowed to direct his energies toward that particular work and to receive in exchange for his products those things which other individuals were more fitted to produce. Thus business enterprises of the individual sort first manifested themselves and then, as a need for greater efficiency became more urgent with the progress of society, partnerships were formed; partnerships in turn developed into corporations, and as the complexities of human activity increased the trust emerged as a natural result in the process of evolution. Throughout this whole progression as new needs began to develop and to demand a greater efficiency in business organizations new forms of organizations were created.

It is a fundamental law of business organizations under a system of competitive effort that that business organization which is best fitted shall survive. We maintain that the trust is a more efficient form of business organization than any system of individual effort, for if a trust possessed lesser efficiency than these independent organizations then these independent concerns would be able to drive from the field of business endeavor every one of these combinations of capital. If an individual concern was able to manufacture its products at a lesser expense and because of that reason could dispose of them at a cheaper price, then the form of organization known as the trust would be driven from the field without the application of the Sherman Anti-trust law or any form of legislation having a similar object. The history of industrial progress during the last ten years shows us that

it is not the trust which is passing out of existence, but the individual organization. By virtue of a combination of enterprises, the trust is able to eliminate the duplication of effort which is found in the case of competing organizations; by a division of production whereby the firm best fitted is allowed to produce certain parts of the ultimate article, and by the ability to utilize products which previously were classed as waste materials, it has been driving the smaller and less efficient business organization from the field. These trusts because of their greater efficiency have inherent within themselves a possibility of giving to the public a lower priced commodity than could be obtained under the system of individual effort; we do not maintain that the trusts have given in every case this benefit to the public, for, because of their monopolistic power and a lack of adequate regulation they have been able to dispose of their articles at a price which netted them unjust returns. The Sherman act does not seek to eliminate such evils as over-charging; it does not furnish a system of regulation to secure to the public the benefit of a lower priced commodity made possible through greater efficiency, but it does seek when certain evils are found to destroy the whole business system.

When we consider the problem from this practical standpoint and realize that these industrial organizations have developed to meet a need and have been able to maintain their existence under a system of competition certainly it would seem that the dissolution of a business organization in order to eliminate certain attending evils

without any attempt to regulate and take advantage of the greater efficiency cannot commend itself to us as a wise and efficient method of dealing with the problem. Would not the saner method of dealing with the trust question be a form of regulation and control which would recognize the efficiency possessed by these organizations and compel them to place their product on the market at the price which bears a reasonable relation to the cost of production? The evils are not in the business organization; the trusts possess the power to place their commodity on the market at a price which would be impossible under the system of individual effort; therefore, we repeat that this law is fundamentally wrong in its attempt to dissolve business organization. The final party to be considered is the ultimate consumer, and we maintain that the best way to safeguard his interests is to pursue a policy of regulation which does not seek to destroy the business organization but which makes use of the efficiency which such concerns possess, by prohibiting a trust from charging a price for its commodities beyond the amount which will return to them a just interest upon the invested capital.

Thus far we have proceeded upon the assumption that the Sherman act can effectively enforce its policy of dissolution; we have contented ourselves with pointing out the obvious fallacy of this method of dealing with the problem. We are unwilling, however, to concede that the Sherman act is capable of effective enforcement and the second speaker of the affirmative will consider the proposition from a standpoint of the inherent defects

of the law itself; and, finally, we shall endeavor to outline a plan of regulation and control, contrasting it at the same time with the method which the present legislation is seeking to enforce. In short, our proposition briefly stated is that the legislation under discussion is fundamentally wrong in policy; that it is incapable of effective enforcement; and, that there are other practical methods of meeting the needs in a just, more efficient, and more business-like manner.

SECOND AFFIRMATIVE, SAM PARLAPIANO, UNIVERSITY OF  
COLORADO

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The trust is the result of an economic law. Progress in the industrial world has demanded a superior form of business organization and gradually the trust form has evolved. Simple business conditions made use of simple business organizations, such as the individual ownership and the partnership ownership. More complex conditions required a more elastic form and the corporation was conceived. The next step in the logical development was the formation of the trust. The test of any business organization is its efficiency and it is upon this basis that the trust claims its superiority. Greater efficiency is had because of certain economies incident to large production, such as: the utilization of the by-products, savings in cross freights, savings on salesmen and advertising, savings through scientific management.

It is one of the accepted and fundamental laws of economics that competition eventually results in the de-

crease of the number of the competitors. The logical outcome of competition is the trust. This is attested by the experience of the thirteen colonies before the establishment of the constitution. Interstate competition was so destructive and commercial conditions were so chaotic and harmful, that a trust, the United States, was formed to prevent waste and secure greater economy. As the *North American Review* says, (Vol. 194:56): "The same economic tendencies which originally made our nation a governmental unit, make these combinations the recognized type of an efficient commercial unit which produces the maximum of productive wealth with the minimum of waste." The trust, then, is inevitable as the result of an economic law. It is here to stay and it must be dealt with.

In continuing the argument of the affirmative, it will be my purpose to point out to you first, that the policy of dissolution is unsound in theory and second, that it is incapable of effective enforcement.

Efficiency is the goal toward which we are striving in all phases of life. In the industrial world competition is wasteful. On the other hand the result of competition, or the trust, legally formed and honestly conceived, has the benefit of great economies due to large production. The policy of dissolution brands all trusts as bad. This very fact brands the policy itself as bad because it does not take into consideration the economics of large production.

Now let it be understood that we are not defending all trusts. We do not say that all trusts are good and



that all trusts have charged fair prices. But we do assert, upon the authority of Prof. Jenks and a cohort of other economists, that a trust may be good and that all trusts are not bad. And surely, if industrial efficiency can be obtained by the formation of the trust by fair methods, we should not condemn all trusts because some of them are bad. And this is precisely the attitude which has recently been taken by the Supreme Court of the United States. It distinguishes between good and bad trusts. This fact involves the Sherman Anti-trust law, our present policy of dissolution, in an inconsistency, because while admitting that a trust may be in the public interest, it seeks the total disruption of the trust to cure its evils. It is the purpose of the policy of dissolution to destroy the whole business enterprise in order to cure its imperfections. This is the policy which is advocated by the opposition. It is a policy of curing by killing and must therefore be condemned as unwarranted and unscientific.

But besides being unsound in theory, the policy of dissolution is incapable of effective enforcement. This is necessarily so because it is diametrically opposed to an economic law. Its futility and ineffectiveness therefore are almost self-evident. But let us consider a few of the cases and examine the results of dissolution. You will remember that we have had a policy of dissolution in the United States for twenty-three years. Although it is not incumbent on the negative to accept the Sherman law in its entirety, any policy of dissolution which they may advocate must in general be similar to the present

one. A consideration of some of the decisions given under the present form of dissolution is therefore justified in this debate.

The Standard Oil decision was given in 1911. The result of the decision was the apparent breaking up of the trust into its constituent parts. But was the dissolution effective? As Prof. Jenks says: "There is reorganization in form but combination in fact." And as the *Literary Digest* says: "Where lies the gain of winning a suit against a monopolistic combination and compelling it to dissolve if the act of dissolution is simply a rearrangement of paper which leaves the ownership of the property in the hands of the same individuals." In this case the constituent companies have merely divided the ground of operation and price agreement is still possible. Moreover, the decision did not result in the reduction of a single dollar's worth of watered stock, nor did it compensate to the extent of a single dollar's worth any one of the small business enterprises which were wrecked during the process of formation of the Standard Oil Company. Again, Standard Oil property has increased in value, Standard Oil stock has gone up and the 500,000 dollars fine was paid by the people through a 10 cent increase on each barrel of oil. Similar results were obtained in the so-called dissolution of the American Tobacco Company. As a matter of fact, 40 per cent. dividends are still quoted in spite of dissolution.

Again the Trans-Missouri Traffic Association case and the Northern Securities case are often quoted showing the effectiveness of a policy of dissolution in regard to

railroads. But the fundamental issue involved in those cases was the prevention of railroad amalgamation. And what are the facts? At present over three-fifths of the 240,000 and more miles of trackage of the United States is controlled by nine groups of individuals. At this point it may be well to quote the opinion of the attorney general, the man who is perhaps the most active in prosecuting trusts. When asked whether he expected to see business restored to the same conditions of competition which prevailed before the formation of trusts, he said: "I do not, because I do not think it is possible." Moreover, the fact that trusts and combinations have increased in number as the Sherman Anti-trust law has grown older is ample evidence of the futility of a policy of dissolution.

The much-quoted advantage of a policy of dissolution, that it will protect the small competitor, is imaginary. Now the policy of dissolution must be either effective or ineffective. If it is effective it will do away with the good features which the trusts possess and which we have already pointed out to you. If it is not effective, it is not going to do away with the trust, and since, under such conditions the trust will remain unregulated, the chances for the small competitor are very slight. On the other hand a policy of regulation is more scientific. It cures the evils of the trust and at the same time preserves its good features; it makes it more possible for the small competitor to enter the field.

In conclusion, we have shown you that the trust is inevitable as the result of an economic law. It is here

and it must be dealt with. There are two policies concerned in this debate. The one is the policy of dissolution and the other is the policy of regulation. The policy of dissolution is unsound in theory and impossible of effective enforcement. Dissolution means the restoration of old time competition. Competition means the recognition of superiority, the final prevalence of the few over the many. It means the eventual formation of the trust. The policy of dissolution would, therefore, lead us around in a circle and get us nowhere in particular. The policy of regulation is more scientific, because it preserves the good and destroys the evil in trusts. How the policy of regulation is superior to that of dissolution will be shown by the next speaker on the affirmative.

THIRD AFFIRMATIVE, RAY SAUTER, UNIVERSITY OF  
COLORADO

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: There are two parties to be considered in the solution of this problem, first, the individual concern which needs protection, and, second, the trust which needs regulation. The final question in this debate is—can the Sherman Anti-trust law protect independent concerns and regulate trusts in a more efficient manner than any other system of regulation and control? We of the affirmative hold that a system of commission control will afford more protection to individual concerns. In the past the Sherman law has failed to protect these individual enterprises. For twenty-two years the trusts have developed in the face of the law, and individual enter-

prises have been accorded but little protection. But the negative may argue that at present this law is experiencing a sudden awakening of power, and to this assertion we not only reply that the same statement was made when the Trans-Missouri case was decided and when the decision was handed down in the Northern Securities case, but we desire to point out that this proposed awakening of power was of little practical value in the Standard Oil and Tobacco Company dissolutions.

By the Sherman Anti-trust law the whole burden of dealing with the problem is placed upon the shoulders of our federal judges. There are now some twelve hundred trusts in existence. In the cases tried by the courts it has taken an average of three years, and in some cases as high as seven years, to reach a decision. Our system, then, has manifest limitations. If our federal judges would endeavor to investigate all the cases relating to these twelve hundred trusts that particular branch of the judiciary would be rendered unfit for any other purpose. But our judges have another purpose; their work is not limited to the adjudication of cases relating to industrial organizations; and our judges are not only unfit by nature, instinct and training to have this whole problem thrust upon them, but the very burden of their ordinary legal work makes it impossible for them to deal with this problem effectively. Last year those courts into whose hands the Sherman Anti-trust law placed the burden of solving every case relating to every industrial organization were hampered in the ordinary conduct of their business by fifty-five thousand individual legal cases. We

maintain that under such a system where every case relating to every industrial organization must be heard by our already overburdened courts, they cannot afford adequate protection for individual enterprises. Such a system may develop enough examples of effectiveness to furnish the negative with material for twelve minute speeches, but when we appreciate the scope, the extent of the problem, we find that these superficial manifestations of power fail to present a practical solution.

The very system which the negative wish to continue in the industrial world has been abandoned in the case of the railroads, and we believe that fair mindedness and reason warrants the belief that a commission similar in construction to the Interstate Commerce Commission must be instituted in dealing with the trust problem in order to insure the protection of the individual enterprises. If we had commissioners, equal in number only to our federal courts, if the negative wish to limit them, those men, by virtue of the fact that they could devote their whole time and attention to the problem, would be better equipped to deal with the conditions. Under an exclusive system of judicial regulation we have waited until enough independent concerns have been driven from the field to warrant a criminal indictment of the trust and in some cases we have waited for twenty-two years for evils of sufficient magnitude to develop to satisfy the peculiar provisions of this type of regulation, and during all this period of lethargy while the Sherman act calmly re-

posed on all its alleged virtues the independent organizations which the negative seek to protect were driven from the field by hundreds.

Under a system of commission control whereby men unhampered by rules of legal procedure would be dealing with the problem, investigation could be conducted, recommendation made, and compulsory measures adopted before the independent firms had been driven from the field in sufficient numbers to warrant a criminal indictment. Therefore, we believe that in the case of individual enterprise a system of regulation and control must be instituted if we hope to protect these concerns from the illegitimate practices of large industrial organizations.

We turn now to the second branch of the proposition, the trust itself. At the very outset we challenge the method pursued by the Sherman act, in its attempted dissolution of large organizations. The first speaker of the affirmative has condemned this plan from a standpoint of economic policy, but there are other elements which fail to commend it as a proper regulative measure. What is the condition which confronts us after an alleged dissolution of these companies? After the superficial application of this law, the trust is allowed to continue in the industrial arena with every dollar of its capitalization untouched, with whatever efficiency it possesses as a business organization working only for the aggrandizement of the few who control the enterprise. In short after the dissolution the large combination is allowed to continue with practically every element

of power it previously possessed. It is at this point that we find one of the most condemning features of the legislation under discussion and it is here that a system of regulation and control would differ radically from the present method. The first element fundamental to the effective regulation which the Sherman law fails to provide is a system of federal incorporation. Only by this method can we hope to secure uniformity of corporation laws and compel publicity on the part of these companies. Second, the evil of overcapitalization remains untouched under the Sherman law and we contend that any system which claims the right to exist as a regulative measure must have as one of its objects the limiting of the capital stock of the companies. This feature has been recently adopted in dealing with the railroad and reason supports the belief that the same plan must be followed in dealing with industrial organizations. When these features—uniformity of corporation laws, publicity, and limitation of stock—are established, we shall have a practical basis upon which to build a practical and effective system of regulation. The primary party to be considered in the evolution of our industrial difficulties is the ultimate consumer. While the negative may laud the power and virtue of the Sherman act we raise the simple question,—what benefit accrued to the 90,000,000 users of oil products from the dissolution of the Standard Oil Company? They paid the cost of the suit and of the dissolution when they bought their oil at an increased price of eight cents per gallon. We need a system of regulation which will



give the ultimate consumer some benefit, and in this connection, the affirmative stands uncompromisingly for a regulation of price. These trusts by virtue of greater efficiency as business organizations, elimination of duplicated effort, and utilization of by-products have it within their power to sell their products at a price below that which is possible in the case of the smaller concerns. The fact needs no substantiation beyond the statement that practically every trust is paying dividends on from two to three times the value of its productive property. The benefits of this efficiency can only be had by regulation and control. By the establishment of federal incorporation, publicity can be compelled. By restricting capital stock to actual physical value and limiting the profits of these companies to a reasonable per cent. of the allowed capital we may have a system of regulation which will give to the ultimate consumer the benefit of large industrial organizations and compel the trusts to sell their products at the price which their business efficiency makes possible.

In advancing this form of regulation and control we have not been unconscious of the fact that such changes cannot be made in a day. But, since for twenty-two years we have pursued a superficial, compromising, evasive, and irresolute policy under the Sherman Anti-trust law and still have the problem on our hands, reason compels us to believe that the time has arrived when a form of regulation and control must be substituted for the Sherman Anti-trust act.

*COLORADO vs. OKLAHOMA*

FIRST NEGATIVE, CARL BILLINGS, '15, UNIVERSITY OF  
COLORADO

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In order to make our stand clear on this question, the negative will again interpret it. It reads: "Resolved, that a policy of federal regulation and control of trusts should be substituted for the Sherman Anti-trust law." To substitute means to "put in the place of." So a double burden of proof falls on the affirmative. First, they must prove that the Sherman Anti-trust law is insufficient to control the trusts. Therefore they must repeal the Sherman law. Then they must outline a system of government regulation and control of trusts, and they must furnish a means of enforcing that system, and they must prove that their plan will be so much more effective than the Sherman law, that the Sherman law should be repealed and their plan put in its place.

The negative will prove:

1. That the monopolistic trust should not be legalized, but that the right of individual effort should be perpetuated.
2. That the Sherman law has been, and will be effective in controlling the trusts in the fields of production, labor and capital.
3. That the Sherman law has regulative features sufficient to control the trusts.

In this debate, the affirmative must uphold the legalizing of the monopolistic trust, for the very fact that they would regulate the trusts, means that they would recognize the existence of trusts as legal. In other words they favor the concentration of the vast wealth and industries of this country into the hands of a few men, contending that a business must become big before it can be efficient; that bigness means efficiency; and the days of individual effort are gone.

We of the negative, on the other hand, are not opposed to big combinations. But we do hold that when a trust reaches a certain stage where it stifles competition, it should be dissolved so that the way for competition may be reopened. We argue our case from these facts: the trust is not an economic growth; it is not always a superior form of business organization; and our government should not legalize monopoly, but break up monopoly power, and give the opportunity for competition—both actual and potential.

Our opponents assert that the trusts are the product of a natural evolution, that they were called into existence as industrial necessities. But, is this true of the great trusts of to-day? Were the trusts of 1899 to 1901 called into existence by the fundamental laws of nature, or were they the outgrowth of a stock promotion mania and an amalgamation craze such as the world never saw before or since? Students of the trust problem know that the big trusts of this country are not combinations of real producers, but the inflation of stock promoters. Trusts have not grown up naturally, as individual necessities.

Their history shows that they have come about as a result of special privileges and unrestricted possibilities of stock watering and dishonest promotion. They have become big by crushing out their weaker competitors by unfair methods. They have not grown under normal conditions; they have not developed because of free competition, but through illicit competitions. Andrew Carnegie, when he was asked by the Judiciary Committee of the Senate, "What is the object sought in the formation of the trusts?" replied:

"In ninety-nine cases out of one hundred, it will undoubtedly be to rob the community of its right to the benefits of competition, disguise it as one may."

Woodrow Wilson, in the *World's Work* for March, says:

"Trusts have not grown. They have been artificially created; they have been put together, not by natural processes, but by the deliberate, planning will of men who were more powerful than their neighbors in the business world and who wished to make their power secure against competition."

Now, the question comes, Honorable Judges,—Are the trusts efficient? Are they in organization, so superior to a single combination that they should be kept as a necessity in modern business? To these questions, the negative answers, "No."

The *Quarterly Journal of Economics* for August, 1907, gives a table showing that from 1900 to 1905, a period of great prosperity, practical monopolies increased their business only sixteen per cent., while, during the same

period, independent companies increased thirty per cent. Prof. Seager, of Columbia University, recently investigated the business success of the thirty largest trusts in existence, and, out of the thirty, he found that ten were unsuccessful and that five were disastrous failures. Take the United States Steel Corporation for example. Who says that it is efficient? Its supremacy is only in its field of practical monopoly. Where it has competitors, its business is decreasing, for its smaller competitors put out more efficient goods. In a recent discussion as to the cause for broken rails and subsequent railway disasters, eminent railroad men, including Mr. James J. Hill, publicly alleged that rails bought to-day from the Steel Corporation are inferior in both quality and durability to rails bought from the Krupps, an independent concern, more than a dozen years ago; and mark you this, that rails manufactured now by different plants in the same corporation will not maintain a uniform standard of quality.

This evidence is not intended to be conclusive. But, since the affirmative would keep the trust in existence because it is big, assuring us that its bigness makes it a necessity, they must show that the trust is the most efficient form of business organization. Here the argument is all negative. When the trust passes a certain size, it becomes clumsy and unwieldy. Its organization is imperfect. It is not easy to manage. It is not efficient, for its very bigness, instead of making it efficient, deprives it of its efficiency. Each department of the

trust depends vitally on every other department, and inefficiency comes the moment that these departments begin to lack supervision from the head, or are driven beyond their legitimate capacity by the central committee in order to maintain dividends on inflated capital. Woodrow Wilson says:

"The big trusts, the big business, are the most wasteful, the most uneconomical, and, after they pass a certain size, the most inefficient way of conducting the industries of this country."

Then what is to be gained by keeping the trusts alive? Do we want to legalize them? Do we want to sanction them by law? It is this monopoly power that the affirmative would legalize. It is this monopoly power that the Sherman law breaks up. The purpose of the Sherman law is, in the words of Ex-Attorney-General Wickersham, to protect the average business man from injuries due to unfair methods of competition. The law is not against combination; it is against the monopolistic trust. Its purpose is to give the opportunity for competition where competition is needed.

This opportunity for competition the American business man holds above every other right, for with it have come inventions, improved methods in manufacture, greater organization of industry, and our own industrial progress during the last hundred years. Have modern conditions made competition impracticable? Must we, in the future, look to something else to safeguard our interests? Must we look to the trusts? No. For com-

petition is the natural tendency of men. It exists to-day everywhere except within the realm of the monopolistic trust; and it is effective.

It is the restraint of this competition that enables one aggregation of capital to become a monopoly; it is the restraint of this competition that is a justification of laws against such all-absorbing trusts; it is the restraint of this competition that makes it right for us to treat such trusts as dangerous monopolies, and to require their dissolution, to demand the punishment of their organizers and managers. Such is the purpose of the Sherman law. It cannot restore the days of unlimited competition, and we do not wish a return to those days. But neither do we want to go back to the days of the Northern Securities Company, when the counsel of that company himself admitted that the forming of the Northern Securities was one step toward placing the control of the railroads of the United States in the hands of three or four men.

Conditions of to-day are appalling, Honorable Judges. Business has become more centralized than our government itself. A few men control the raw materials of this country; a few men control the water-power, the railways, the prices of products, the country's credit. This condition must not go on. This concentration of power must be broken up. The opportunity for individual effort must be protected. To accomplish this, we have the Sherman law, and what the country needs most is its earnest and thorough enforcement.

SECOND NEGATIVE, GEORGE HAMLIN SHAW, UNIVERSITY OF  
COLORADO

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: It is easy enough for the affirmative to deal in generalizations regarding the Sherman law, and to say that it has not accomplished anything, and that it is uncertain, ineffective, and ambiguous. Such things can be said about any law, but when it comes to backing up such statements, then the whole matter takes on a different aspect. When we are confronted by actual facts, maintained by competent authority, it is then high time that we stop and ponder ere we unthinkingly throw aside the Sherman law, the weapon we have, and reach frantically for one that has been tried only in the theoretical mind of the ever-present reformer. We shall show you that the Sherman law has proved an adequate and efficient remedy in regard to the three greatest monopolistic problems with which we are confronted, viz., the so-called corners, second, the labor trust, and third, the capitalistic trust. In dealing with these questions we shall regard only the first three sections of the act, which deal with monopolies in illegal restraint of trade, the so-called prohibitive clauses. The third negative speaker will point out to you the regulative and preventive features of the remaining sections of the act.

First then, as to corners—corners were outlawed by a recent decision under the Sherman Anti-trust act. The case arose as the result of a coup executed in a little over six months, by James A. Patton and associates, who



boosted the price of cotton seven cents a pound and realized an unnatural profit, variously estimated at from ten to thirty-five millions of dollars. The Supreme court declared this to be a violation of the Sherman law, since the action was clearly in restraint of trade. What does this mean? It means that, hereafter, any attempt to run a corner on any article of food or clothing can be throttled in its inception. It means that the Sherman Anti-trust act is a proper and effective means for meeting the evil which Congress and state legislation have for years been trying to pass laws to stop. What would the affirmative suggest as a remedy when they repealed this law? Do they not think that this evil requires a remedy? Or would they leave the consumer an easy prey for every gang of speculators which is powerful enough to prey upon him? The evil is ever-threatening; we have the remedy; the affirmative would do away with it. What then would they put in its place?

Second, as to the labor trusts. It has been truthfully said that of all the legends that have grown up about this law perhaps the most absurd is that it was never intended to apply to the workingman. It does not prohibit the ordinary peaceful activities of the labor unions, but they may not enter into agreements to restrain trade. The application and effect of the Sherman act with regard to labor trusts is best shown in the Danbury Hatters' Case in which the American Federation of Labor and United Hatters of North America entered into a nation-wide boycott against this one concern. The boycott was prosecuted vigorously and unscrupulously.

Upon bringing action the plaintiff received \$340,000 damages. Again in the Chicago disturbances of 1894, the Sherman act was effective and 200,000 men were enjoined from illegal practices. That a combination of labor unions to prosecute interstate boycotts is dangerous there can be no question. How would the affirmative deal with this problem? What will their remedy be? Will they in their great kindness permit the labor trust to go unhampered along whatever path it may choose? These questions are vital to the point at issue; the affirmative must answer them to sustain its case.

But, they say this question in its general conception deals primarily with the great money trust, with the capitalistic monopolies. Why, Honorable Judges, we can quote you one case alone in which the Sherman Anti-trust law more than justified its existence even if it were never again to be used and that is the Trans-Missouri Freight Association case. In this case eighteen railroads combined to regulate and fix freight rates. The Supreme court decided this to be in restraint of trade. It broke up the combination, threw up a bulwark against all future combinations of the kind, and changed the whole policy of railroad management. It was this decision together with that of the joint traffic cases which restored vitality to the slowly dying Interstate Commerce Commission. It was through the Sherman law alone that the Interstate Commerce Commission attained the power that has made it effective. Take away the Sherman law and you disarm the Interstate Commerce Commission. Again under the Addison Pipe and Steel

Company case in which the manufacturers combined to control the prices of pipe in thirty-six states and territories, it was disclosed that the monopoly, in their restricted territory sold pipe at \$24 a ton which outside of this district where there was competition sold at \$14. This may be one of the benefits of combination of which the affirmative have told you. Their phraseology is confused; it is not benefit of combination, but benefit to combination. This illegal combination through the Sherman law was dissolved, and the dissolution was effective.

Again take the Northern Securities case, in which J. J. Hill and J. P. Morgan secured a monopoly of transportation from the Great Lakes to the Pacific Ocean. The Roosevelt administration relying on the Sherman law destroyed this corporation. Consider the Standard Oil and the American Tobacco cases, the Union Pacific Merger case, the Bath Tub case, and the Lumber Trust case. All these trusts have been dissolved and their systems of reorganization must meet the approval of the court. They are enjoined from further illegal practices, and disobedience means contempt of court. In the Turpentine and National Cash Register cases, jail sentences were imposed. This should have a splendid effect upon would-be violators of the law, who fear not its uncertainty, but its certainty.

In the hands of a vigorous Attorney-General, the Sherman law has struck terror to the great corporations who fatten on their illegal practices. Whatever might happen in the competitive field in the next few months or years, the dream of a self-perpetuating, self-extending and self-

enforcing monopoly is at an end. This result has been attained through the Sherman act. But the affirmative would repeal this law. Why? They say it is ineffective and inadequate. Do the facts indicate any such thing? No, quite the contrary; it has unequivocally proved its worth. They say it is obsolete and ill-timed. Do they realize that states all over this country are passing just such bills? States that have tried all the commission healing lotions known are turning to the knife that removes the diseased portion and leaves the body politic healthy and well. Do they know that New Jersey passed an anti-trust bill this year sanctioned by President Wilson? And that this fact together with the important utterances of President Wilson on the trust question in his new book, just published, places the Democratic party on record as favoring this kind of legislation. Our opponents say that the law is uncertain and ambiguous. Strange, is it not, then, that, as my colleague has shown you in the last four years since this law has been vigorously enforced there has not been a single trust formed in this country—not one. Finally, they say that it is not right to make criminals out of our business men. Did you or they or any one ever hear of a legitimate business suffering under the Sherman act? It is the worthy business man's best support. But it does deal with its violators as criminals and we hold that it should. We believe that the same treatment should be held out to the convicted trust conspirators and managers as is dealt out to the common thief.

What would the affirmative substitute in the place of

this law? Will they define and place under prescribed rules every known form of business? Will they regulate and fix the price of every known commodity? Honorable Judges, we have shown you not through general statements but by actual facts that the Sherman law has more than justified itself. This law from practical tests represents the best attainable result in trust regulation. It has successfully met the problem for which it was created. It is clear, effective, adequate, certain, unambiguous, sufficient, enforceable, and it should be maintained.

THIRD NEGATIVE, B. F. KITCHEN, UNIVERSITY OF  
COLORADO '13

We shall now prove that the Sherman law in addition to the prohibitive features of its first three sections has other features that are sufficient for the control of trusts, and for the regulation of companies which by the abuse of compensation may become trusts. We shall also prove that these same features are necessary in any plan of regulation and control over trusts by commission.

Now, Honorable Judges, in order to prove these things, we shall base our arguments upon the provisions of the Act to Regulate Commerce, the act that created the Interstate Commerce Commission. We have the right to argue along this line because the modern exponents of trust regulation and control by commission, as well as the members of the affirmative, repeatedly point to the operations of the Interstate Commerce Commission as proof of the necessity of their plans.

Beginning with Section 4 of the Sherman act we find that the United States circuit courts can prevent violations of the law by means of an injunction. This power is so strong that Samuel Untermyer said, "The formation of the Steel trust and of every other trust could have been prevented by the use of an injunction." And what is more significant, Honorable Judges, is the fact that injunctions will be necessary in any plan of commission control over trusts. This statement is better understood by reviewing the case, United States vs. the Missouri Pacific and twenty-four other railroads. In this case the railroads combined for the express purpose of raising freight rates in western trunk line territory, and were prevented from doing so by an injunction granted under the Sherman law. Now here was a case, Honorable Judges, where a group of men conspired to set aside the rulings of the Interstate Commerce Commission which has had the power to fix rates since 1906. They were restrained in this attempt by an injunction. Since that time, in Section 3 of the Elkins act, the injunction has been made a permanent instrument for the enforcement of the decrees of the Interstate Commerce Commission. Because of this fact we may conclude that the injunction will have to be used for enforcing the rulings of an Interstate Trust Commission. For, Honorable Judges, it is an absolute truth that the men who control the industries of the country are just as apt to disobey the mandates of a Trust Commission as the railroads are to disobey the rulings of the Interstate Commerce Commission. One thing more, Injunctions under the

Sherman law and under the Commerce law are granted upon individual complaints, and are enforced by court orders. Hence, we may conclude that the injunction used by the Trust Commission will be invoked and enforced in the same way.

Now further, Honorable Judges, Section 5 of the Sherman act states that witnesses in a trust case may be summoned from any district in the country, and Section 12 of the Interstate Commerce law has a duplicate of this feature. Hence by using the same line of reasoning as before we may conclude that any plan of control of trusts by commission must have a similar provision for summoning witnesses.

Turning to Section 6 of the Sherman law we find that any property in the course of transportation and belonging to a conspiracy in restraint of trade shall be forfeited to the United States. The Act to Regulate Interstate Commerce by Commission has a similar provision in Section 1 of the Elkins amendment, except that in this case money is forfeited. Therefore, Honorable Judges, we may again conclude that such a feature will have to be incorporated in a commission plan of trust control. In order to make the necessity of such a feature more clear let us take a special offense that might be subject to the rulings of a Trust Commission. Such a one is "spying upon a competitor's business." Suppose that some trust after illegally finding out the status of a rival's business proceeds to ship its goods into his territory for the express purpose of running him out of the field by insidious cutting of prices or some such famil-

iar method. You will admit at once, Honorable Judges, that the best way to stop this offense would be by a forfeiture of the property concerned or by a money forfeiture. Of course proceedings would be instituted by individual complaint and settled by court order which is the case under the Sherman law and under the Commerce law.

Again, Section 1 of the Sherman act states that a person who has been injured in his business by a restraint of trade may recover damages in any United States circuit court to the amount of three times the value of the injured property. Section 16 of the Interstate Commerce law has a provision essentially the same. In both cases suits are begun by individual complaints and settled by court orders. Hence using the same line of reasoning as before, we may conclude that a similar section must be incorporated into any plan of trust control by commission. Section 8 of the Sherman law merely defines "person" or "persons," and such definition is necessary in any plan.

Now, Honorable Judges, let us turn to the most important amendment to the Sherman law. It is Section 6 of the Act to Establish the Department of Commerce and Labor, and states that there shall be a Bureau of Corporations whose duty it shall be to investigate all trusts, joint stock companies, and corporate combinations, and to make public its findings. As its former head, Herbert Knox Smith, has said, "This bureau is an effective agent of publicity." And you are aware of the fact, Honorable Judges, that publicity is the main feature in



every commission plan of trust control. Here we have publicity under the Sherman law, and if more publicity is desired, all that will have to be done to get it is to amend this amendment slightly.

Now let us draw some definite conclusions from our discussion of the last five sections of the Sherman law and the publicity amendment. We have found that these five sections together with the amendment contain features that have duplicates in the Act to Regulate Commerce; therefore, we have concluded that these same features will be necessary in any plan of commission regulation and control over trusts, basing our conclusion upon the fact that the affirmative hold the Interstate Commerce Commission to be effective, and that trusts are just as apt to disobey the mandates of a Trust Commission as the railroads are to disobey the Interstate Commerce Commission. We have found also that the machinery for setting in motion these features is the same in all plans, being individual complaints; we have found that the machinery for enforcing these features is the same in all plans, being court orders. And last, we have found that under the Sherman law injunctions, forfeitures of property, award of damages, and publicity may all be used to prevent any combination that might become a trust from becoming one. Now right here we would ask the affirmative,—What do you propose to do with the small combination which is not a trust but which may adopt the methods of a trust? Finally, we ask,—What is to be gained by discarding the Sherman law and then substituting for it a system that must depend upon

features identical to those of the law itself in order that the decrees of a Trust Commission may be enforced?

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# FEDERAL CHARTER FOR CORPORATIONS

## II

*Ripon College vs. { Carleton College  
and  
South Dakota Wesleyan.*

The debates in the Tri-state Debating League, composed of South Dakota Wesleyan, Carleton and Ripon colleges, were held on the evening of April 25, 1913. The Ripon speeches which are given here lost on the affirmative to Carleton by a two to one decision at Ripon, and won unanimously on the negative at Mitchell, South Dakota, from Wesleyan. The debates in this triangular did not follow the beaten pathway in the discussion of the federal charter question. The Ripon negative is a notable example of this departure, being a complete surprise to most debaters of the subject.

The usual statement of the question was used: "*Resolved, That all corporations engaged in interstate commerce should be required to take out a federal charter on such terms as Congress may, by law, prescribe. Constitutionality granted.*"



# FEDERAL CHARTER FOR CORPORATIONS

*RIPON COLLEGE vs. CARLETON COLLEGE*

FIRST AFFIRMATIVE, CLARENCE KOPP, RIPON '14

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The exact question for discussion this evening is, "Resolved, that all corporations engaged in interstate commerce should be required to take out a federal charter on such terms as Congress may, by law, prescribe. Constitutionality granted." Now in the first place let us see what this question means. The United States supreme court has decided that interstate commerce is that commerce which is done across state lines. It includes the subject matter of such traffic, the fact of such traffic, and the instrumentality by which it is carried on. Now what is it to engage in interstate commerce? Manifestly it is to be in the business of carrying on commerce across state lines. A corporation engaged in interstate commerce, then, is one organized for the purpose of carrying on such commerce across state lines.

Now it is manifest that only the larger corporations have organized with the purpose of carrying on a continuous business in more than one state, and by reason of such business may be said, justly and properly, to be

engaged in interstate commerce. Now these are the corporations which present the evils of big business, and which have occasioned general and widespread alarm. Our question, then, means the transference from the states to the federal government of the right to charter and control these corporations. The issue of this debate is—which government, state or nation, should charter the corporations engaged in interstate or nation-wide business.

At the time of the founding of our government and for many years after, the power over interstate commerce given the federal government was sufficient to regulate interstate problems. Business was small and local in character. The corporations were also local in character and comparatively unfamiliar. The state naturally assumed the power of incorporating them. But with the gradual adoption of the corporation plan business evolved from the small local concern to the giant trust and monopoly. The facilities for the control of business remained the same as in the beginning. It is our contention, merely, that the control of business should grow with the growth of business and centralize with the centralization of business. However, since the control of business has not kept pace with its growth and centralization, evils of national importance have crept into the large corporations engaged in interstate commerce.

Now, what are these evils? They are over-capitalization, interholding, dishonesty in promotion, corrupt practices in management, and lack of responsibility therefor. Undoubtedly the negative will grant these evils, but they

will ask why the federal government should have control over the charter of the corporation in order to reach these evils? Merely this, because the evils of the corporation lie in its organization and promotion. The charter creates the corporation, authorizes its organization, controls its promotion, and may dictate absolutely what it shall do and what it shall not do. Since the states now do the chartering all the federal government can do is to exercise its power over interstate commerce. Acting indirectly through this power it has failed and always will fail to reach the evils. Yet these evils affect interstate commerce and thus defy one of the proper functions of the federal government. If the nation is to govern interstate commerce, is it not reasonable to make its power over everything that affects interstate commerce complete?

We maintain that the federal government should charter corporations engaged in interstate commerce because the present evils of the corporations arise from the state power of chartering. These evils arise in the first place because the state laws are lax. Take capitalization—With the possible exception of two or three states, no attempt is made to regulate capitalization. And even in these states there is no adequate provision made against over-capitalization. New Jersey is one of the few states which requires an authorized capitalization, but how much does this mean when the Steel trust originally capitalized at three thousand can jump in a single bound, when the time is ripe, to a capitalization of \$1,100,000,000, netting J. Pierpont Morgan, according to



his own testimony before the Pujo committee, a cool seventy million dollars. This gigantic hold-up of the public was the direct result of New Jersey's willingness to permit over-capitalization. But over-capitalization is not the only evil resulting from lax state laws. Interholding, the keystone in the structure of trust and monopoly, is contrary to the spirit of common law, yet New Jersey followed by thirteen other states, has violated the sense of justice of the ages and sanctioned this nefarious practice. Moreover, few states require annual reports from corporations, which can furnish any measure of publicity. Furthermore, when once granted a charter, the corporations are comparatively free from control as far as dishonesty and corrupt practices in business are concerned. And should litigation of this kind arise there is little provision for personal responsibility. Now, Honorable Judges, the significance of all this is, that as long as one state persists in this laxity of law, the whole state chartering system is open to all these evils.

The evils of the corporations arise from the state power of chartering, in the second place, because the states do not have adequate power over foreign corporations. A foreign corporation entering a state has practically all the rights of an individual. The state may prohibit it from owning real estate or from doing a purely local business without a franchise or permit of some kind, but over interstate commerce it has absolutely no power; the state can be invaded no matter how disastrous the results to local business. Where inter-

state commerce is involved, the foreign corporation as Frank E. Horack says, "has nothing to fear and no favor to ask of any state." Taking advantage of this fact certain states, notably New York, Pennsylvania, Connecticut, and New Jersey, have chartered corporations which they would not allow to do business within their own borders. Think of it, Honorable Judges, a state spawning corporations for a monetary consideration—corporations which it will not allow within its own borders—and sending them forth to abuse the courtesy and comity of neighboring states. Should one of the neighboring states, powerless to exclude the interstate commerce, attempt to shut out such a corporation from doing local or intrastate business, it is promptly met by retaliatory measures from the state granting the charter. Now, Honorable Judges, in the light of this condition of state warfare and of inadequate power by the states over foreign corporations, is it not reasonable to transfer the power of chartering corporations engaged in interstate commerce to the federal government? The people of any state will then have the right of protest to a government in which they have representation.

Now, finally, the evils of corporations arise from the state power of chartering because of a lack of uniform laws. Manifestly a uniformly good law would abolish the evils. As every attempt at uniform legislation has demonstrated, the forty-eight states will never pass a uniformly good incorporation act. This is admitted by practically everyone. Now, why is it that the states are unwilling to join forces in abolishing the corporation

evils? For two reasons: (1) there is always a chance for corporation influence in state legislation, and (2) certain states having found the control of corporations a lucrative source of revenue are loath to give it up. For example, New Jersey's income from its corporation taxes has ranged between \$6,000,000 and \$7,000,000 annually in recent years. This is practically ninety-two per cent. of the entire revenue of the state. It is not surprising that Delaware should become envious of the golden stream flowing into the coffers of New Jersey and take over bodily the latter's laws except that it underbids her in every charge. It is not surprising that Maine and West Virginia send out pamphlets setting forth the liberality and advantages of their corporation laws. The spirit of the times is aptly illustrated by this advertisement from a Boston paper:

**"THIS BEATS NEW JERSEY"**—Charters procured under South Dakota laws for a few dollars. Write for corporation laws, blanks, by-laws and forms to PHILIP LAWRENCE, late assistant secretary of state, Huron, Beadle Co., S. Dakota.

Truly United States Judge Peter S. Grosscup hits the situation accurately when he says, "Put-your-nickel-in-the-slot-and-take-out-a-charter is the invitation that the states extend, and in line before the slot machine are the corporate projects conceived to defraud as well as those that have an honest purpose." In the light of all this it is evident that if we are to have a uniformly good incorporation act we must obtain it from the federal government.

Now in conclusion, Honorable Judges, I have shown you that evils exist in the present situation, that federal control over the charter of corporations engaged in interstate commerce is necessary to reach and cure these evils, and further I have shown that these evils arise from the state power of chartering, because of the lax laws of the states, because of their inadequate power over foreign corporations, and because of the lack of uniformity in their laws. Because of these facts the affirmative concludes that a federal incorporation act is necessary and advisable.

Now, gentlemen of the negative, in opposing our contention you must either defend the present system or advocate some plan of legislation which implies the extension of federal power over the corporation. In the face of the facts we dare you, we defy you to defend the present system. On the other hand if you propose any kind of federal action as a remedy you deprive yourself of the right to condemn our plan on the ground of centralization of power, for should you succeed in finding a plan of placing the corporation engaged in interstate commerce under federal control so as to reach the evils, how much power have you left the states? Merely the power to issue a piece of paper and collect a franchise tax for it? You place yourselves then in the position of advocating state graft upon the corporations. Take your choice.

SECOND AFFIRMATIVE. FRED C. MAYNARD, RIPON, '14.

Honorable Judges, Ladies and Gentlemen: My colleague has shown you that evils exist in the present system of state chartering of corporations, chief among them being over-capitalization, interholding, dishonesty in promotion, corrupt practices in management and lack of responsibility therefor. Further, he has shown that these evils inhere in the present system of state chartering because of lax laws, because of inadequate power over foreign corporations, and because of a lack of uniformity of laws. In short, he has shown the necessity of a federal incorporation act.

It is my purpose to show, first, that a federal incorporation act restores to the national government its right to control interstate commerce; second, that federal incorporation will remedy the present corporation evils; and, finally, that it will cure injustice and the evils inherent in the state system of chartering.

Federal incorporation of interstate commerce corporations would give national control over national business, placing the power in the hands of Congress where it naturally belongs. We maintain that this power naturally belongs to Congress because the federal government was organized with the avowed purpose of controlling interstate commerce. It is a fundamental principle of the constitution that "Congress shall have power to regulate interstate commerce," and this clause has been interpreted judicially to mean the sole power. As demonstrated by the Lottery Case (188 U. S. 321), Gibbons

v. Ogden, and Hanley v. Kan. Cy. S. R. R. (187 U. S.) Furthermore, the courts have decided in innumerable cases that the federal power over interstate commerce includes power over the instrumentality of that commerce. (Wilgus Corporation Cases P. 1504.) It is perfectly evident to any one that a corporation is an instrument of commerce. The federal government has the right then to charter an interstate commerce corporation, and in advocating federal incorporation we are conferring no new power upon the national government. The power of congress to create any corporation need not be inquired into since we see the national banks all about us. Moreover, Congress has authorized the incorporation of various railroads, canals, and bridge companies. Thus we see that the federal government not only ~~has~~ had the power always to charter interstate commerce corporations, but has used it.

Now, then, why is it that corporations doing interstate business are not all under the federal control? History furnishes the answer—the present system of state corporation of interstate commerce corporations is one of accidental growth, and does not follow the constitutional provision for the regulation of interstate commerce. At the time of the formation of the constitution there were according to Prof. Wilgus of Michigan University only 21 business corporations in the United States. By 1800 according to Baldwin in “Two Centuries of Growth of American Law” there were only 200 and these of a local character. These naturally chartered under state direction, as my colleague has shown.

Prior to 1870 there were only two trusts. (Moody's Corporation Manual 1903.) To-day centralization and growth has made the bulk of business interstate in character, and we find the direction of it vested in a few state created corporations that are national in scope and activity, imperial in power, but local in organization and governmental jurisdiction. The states, then, have assumed a power not properly or constitutionally theirs, and have ushered in, blamelessly, a system of inadequate control over interstate commerce.

Now all that the affirmative proposes to do is to restore to Congress complete control over interstate commerce. Notice, Honorable Judges, that all the affirmative pleads for is a change of jurisdiction. We do not thereby rob the states of what is properly theirs under the terms of the constitution, we merely change the national attitude toward interstate commerce. In proposing a federal incorporation act as additional interstate commerce legislation we are not changing a governmental system, we are correcting an accident of jurisdiction, we are preserving and clarifying the constitutional duality of control—national control of national business, and state control of state business.

The change, however, is a significant one, since the power to charter is the power of life and death over the corporation. A few states with lax laws will find that they have lost the privilege of foisting interstate corporations upon their neighbors. With the power of chartering vested in Congress every state will have a voice in the control of business that vitally concerns its

welfare. Thus, Honorable Judges, we advocate a plan which is not centralizing, for the federal government has always had the chartering power; it is not radical, for it merely restores to the national government what is constitutionally its power; it is not drastic, for it implies merely a change of jurisdiction from the lax laws of a few states to the efficient and uniform control of the central power.

Having shown that federal incorporation restores to Congress its right to control interstate commerce, we come to the second proposition—that federal incorporation will cure the present corporation evils. First, it will remedy the evil of over-capitalization, for by placing the issuance of stock upon a basis of physical valuation or tangible assets Congress can remove the possibility of watered stock. Able thinkers in Congress are now advocating such legislation. Interholding, the second evil, can be prevented by denying a charter to a corporation holding stock in another corporation. Interholding is the very backbone of trust and monopoly, and a federal incorporation act would solve the problem which the Sherman Anti-Trust law has failed for twenty years to meet. The evil of dishonesty in promotion and management can be curbed efficiently at the very threshold of the corporations' existence by placing the burden of proof upon the promoters to satisfy the bureau of corporations as to the honesty of their purpose, the stability and legality of their enterprise. Moreover, continued honesty of management can be assured by the requirement of complete publicity. Directors will no longer, as



they do now, find it profitable to meet in Arizona instead of Chicago or New York in order to hide their transactions. Finally, dishonesty and corrupt practices can be provided against by a provision in the charter making the officers and directors criminally liable for any violations of the charter or of federal law.

Now besides striking at the evils of corporations, Congress may authorize corporations engaged in interstate commerce to do a manufacturing business, and may prohibit the present interstate corporations from dividing their business or forming a partnership to evade the law. Again, defiance of the bureau of corporations can be defeated and the execution of the law made certain by giving the bureau power to revoke the charter and place the corporation in the hands of the receiver. The corporation need not be denied an appeal to the federal courts, but it can be denied the right to keep up its evils during years of litigation. Finally, the federal incorporation act could give a period of a few years for the reorganization and chartering under the new jurisdiction. There need then be no disturbance of business or panicky agitation of any sort. The plan I have advocated, Honorable Judges, contains nothing new. Practically all of these ideas have been advanced for years by many of the most able thinkers of the country, including such men as Prof. Jeremiah Jenks of Cornell University, Prof. H. L. Wilgus of Michigan University, Ex-Presidents Roosevelt and Taft, former Attorney-General Wickersham, Senator Beveridge, Samuel Untermyer, Attorney for the Pujo Committee, Attorney James

B. Dill, one of the foremost corporation lawyers of the United States, Judge Peter S. Grosscup and many others.

/ Now my third proposition is that federal incorporation will not only restore to Congress its right to control interstate commerce, will not only cure the corporation evils, but it will abolish the injustice and evils inherent in the state system of chartering. At the present time corporations doing an interstate business are chartered by a few states with the laxest laws. These corporations are doing a national business regardless of the wishes of neighboring states, and we ask the negative to show why a few states should have the power to legislate for the business of the entire country. What right has Arizona with its lax laws to charter a monopolistic corporation to do business in Wisconsin? What right has Delaware to charter the bankrupt Allis Chalmers Co. to begin business again in our state? A distinct merit of federal incorporation is that it gives this power to Congress and not to some distant and obscure legislature.

Second, federal incorporation<sup>and</sup> provides a uniform law for the chartering of interstate commerce, and thus ~~does~~ away with the confusion of the present system. It abolishes forty-eight sets of continually changing laws, and puts an end to state warfare, to the foreign corporation problem, to competition between states for franchise taxes, to the encouragement of corrupt business by lax laws, and to the ineffectual attempt of the federal government to regulate interstate commerce without adequate legislation.

A third especial merit of the federal incorporation act is that it protects the investor from fraudulent schemes and hopeless investments. Honest business has been hampered under the present system because of the promotion of dishonest corporations. Moreover, a great many people who could ill afford to lose have been swindled. If federal incorporation did nothing else besides preventing dishonesty of promotion it would be justified.

A fourth especial merit of federal incorporation is that it provides for the public welfare instead of swelling the coffers of a few states with franchise taxes. Where the present system allows a few states to charter the majority of the corporations whose existence affects the whole country, the federal incorporation puts the power in the hands of the government which best represents all the people.

A fifth merit of federal incorporation is that it provides the public with knowledge of the situation at all times. As James B. Dill says, "A federal law would put all legislation, proper and improper, in a glass case and expose it to the views of the entire public." The steel trust or sugar trust or any other monopoly would find it hard to get a federal charter and escape the notice of the nation's press. Under the present system escape from publicity is a comparatively easy matter.

In conclusion, Honorable Judges, let us review the affirmative contentions. We have shown that a federal incorporation is necessary because of the evils of the present situation, and because those evils are inherent in

the state system of chartering. We have shown that federal incorporation restores to Congress its right to control interstate business, that federal incorporation will remedy the evils of the corporations and of the state system of chartering. In the light of all these things we conclude that a federal incorporation act should be adopted.

THIRD AFFIRMATIVE, ALFRED D. SUTHERLAND, RIPON, '13

(Summary)

Mr. Sutherland's speech is not printed here in full for the reason that it was never written. It was his part in this debate to answer all arguments brought out in the two negative speeches which preceded him. The debate was planned this way because it was thought that two constructive speeches would be sufficient to present the case for the federal charter, and that a lead could be gained upon the negative by taking twelve minutes for rebuttal at this juncture.

Mr. Sutherland first supported the contention advanced in the opening affirmative speech that "engaged in interstate commerce" should include only those firms carrying on a continuous traffic or commerce across state lines. He contended that there was a difference between an "act of interstate commerce" and "being engaged in interstate commerce," and supported his argument by quoting the decisions of federal courts in several cases which involved a definition of "engaging

in business." He then illustrated his point concretely by saying that a lawyer who bought a suit of clothes was not engaged in the clothing business, and that a minister who bought a bottle of Pabst's Extract was not engaged in the liquor traffic. The object of this contention was to get around the charge of "all-inclusiveness" made by the negative.

Mr. Sutherland then answered the negative contention that a federal charter would take police power away from the states. He showed that the national banks were created and in part controlled by the federal government but that the states still had any police power necessary over them, and that no harm had been done to states rights.

The argument that the federal charter would flood the federal courts with corporate litigation was next answered. He showed that the definite requirements of an incorporation act would clear up much of the litigation now in the courts because it would prescribe the government's attitude instead of leaving it in doubt or to judicial opinion. He also contended that if it should develop that the federal charter was causing more litigation than it was preventing when once the government's attitude was made clear, that there would be no harm in increasing the number of the federal courts as such courts were as much the people's courts as the state courts and could be trusted just as safely.

Another negative contention, that the federal charter would confer no new power on the federal government and hence would be useless, he answered by showing

that it was not a new power that the federal government needed but a new instrument or method by which its power could be applied. He pointed out that both sides agreed that the federal government had the power to charter already, but that there was no law which gave the federal government use of its power and that there should be such a law since the states were failing to deal with the situation.

The argument that the federal charter would demoralize the state methods of corporation taxation and rob them of their corporation revenue he answered by placing before the audience the fact, gleaned from the report of the commissioner of corporations on state systems of corporation taxation, that only three per cent of the entire amount of taxes collected from the corporations depended upon the issuing of the charter. The fact that ninety-seven per cent of the corporation taxes now collected by the states could still be collected by the indirect methods now employed if we had a federal charter system he took to be complete evidence of the fallacy of the negative argument. He concluded by handing the special reports of the commissioner of corporations on state systems of corporation taxation to his opponents for examination.

FIRST AFFIRMATIVE REBUTTAL, CLARENCE KOPP

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The issue of this debate is this: Are we going to continue to charter interstate corporations under the lax laws of the states or are we going to give the charter-

ing power to the federal government, which is representative of all the people.

In my first speech I challenged the gentlemen of the negative to defend state chartering without further federal legislation and they have not done so. They have chosen to advocate additional federal legislation directed at the corporation evils. Now we call attention to the fact that this is our ground, and that the negative have come over to our position except that they advocate a different kind of federal action. Now my colleagues will discuss the merits of their proposals; what I want to do is to point out a weakness in their position.

We have shown that the corporation evils lie in the organization and promotion of the corporation, and that they are covered by the charter. Now the negative plan proposes that the states continue to create these evils by issuing the charter and then turns squarely around and advocates federal legislation to prevent them. They set one power over against the other, and thus intensify the dual system of government and pave the way for conflict between state and national authority.

Now it is manifest that in a conflict between these two jurisdictions the federal government would win. All the states could do then would be to issue a charter, every term of which would be dictated by the federal government. With this result of the proposed negative plan in mind, we wish to ask the gentlemen once more, "How much power have you left the states?" If the federal government is going to dictate the matters of capitalization, interholding, and methods of promotion

and management, why not have it issue the charter and be done with it? Since advocating federal regulation, have you any reasons for retaining state chartering, gentlemen? If so, what are they? We have already shown that the tax which would be lost is trifling and could easily be made up in another way.

The gentlemen object that the federal charter could be evaded. This is no argument against law of any kind. Any law can be and most of them have been at sometime evaded by somebody. Our condition would certainly be no worse under an evaded federal incorporation law than it is at present. And we wish to remind the gentlemen here that in defending state chartering they must accept the burden of present conditions.

Now would the federal charter rob the states of any inherent right? Our opponents seem to think that the police power of the state would suffer, yet they argue that federal chartering would confer no new power upon the federal government, the position which we ourselves have taken. Now the thing we do not see is how a power can be taken from the state if none is added to the federal government. As a matter of fact state chartering is a privilege, not a right, an accident of business life, not a constitutional prerogative. Herbert Knox Smith, when Commissioner of Corporations, took this position. Also Theodore Roosevelt, in his message to Congress held that the federal government had full right to the chartering power.

Now if there are any other reasons for retaining



state chartering we'd like to have the gentlemen set them forth.

THIRD AFFIRMATIVE REBUTTAL, FRED C. MAYNARD

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In the closing speech of the affirmative I wish to present our contentions regarding the fundamental issues of this debate.

In the first place the gentlemen of the negative have asserted that they wish to leave the states what properly belongs to them and name the police power as one which the federal charter will deprive the states of. We believe that the states will not lose any of their power over local business which is constitutionally theirs. And as to the loss of police power over federal corporations, we ask,—what police power have they lost by reason of national incorporation of banks?

The negative has asserted that the states will be deprived of income from corporation taxes, but we have shown that only the charter fee is taken from them and that they still have the right to tax the business of the corporation by various methods now in use. For instance, out of \$9,000,000 total corporation taxes in Massachusetts only \$86,000 is derived from taxes levied upon the charters. We have, moreover, asked our opponents to justify the present system which allows a few states with the laxest laws to garner the largest part of the fees from corporations doing a nation wide business. They have offered no justification.

The negative has asked us what additional power we

delegate to the national government. Now, gentlemen, we do not give any additional power to the government by incorporation. We give merely a means whereby the government can exercise its constitutional control over interstate commerce. Since, as we have shown, the federal incorporation will give control over the charter which is the origin of the evils, it alone can make possible adequate supervision by the government.

Again, the negative has asserted that corporations will evade incorporation under the federal charter by dissolving and organizing into some other kind of business association. All that will be necessary in such a case is extra legislation at a later time to deal with such attempts to evade the law. We should reach them in just such a manner as the negative has suggested.

The negative has urged that federal incorporation is untried. But, gentlemen, when such nations as Germany, England, Australia, Canada and France have some form of federal incorporation, it is reasonable to believe that what the greatest trading peoples of the world have found effective is no idle dream. What they have found useful is not dangerous.

The gentlemen have endeavored to make a point out of the assertion that seventy per cent. of the business of the country is not incorporated. This percentage is probably incorrect, but we hope it is clear that our plan is not intended as a cure-all. We are not debating the control of business in this country; we are debating the chartering of corporations engaged in interstate commerce—nothing more.

The gentlemen fear that federal incorporation will remove litigation from the state to the federal courts. What of it? Are not the federal courts as much courts of the people as the state courts? Will there be any harm in increasing the number of federal courts if it should prove to be necessary? Attorney James B. Dill, a prominent corporation authority, says that federal incorporation will decrease the amount of corporate litigation.

Now as to the negative proposals for further federal legislation supplementary to the present laws, we believe them superficial and ineffective. They strike at the evil rather than at its cause as the federal charter plan does. Moreover, such superficial governmental attempts at control of the corporations have not proved successful in the past. The Anti-trust act of 1890 is a recognized failure, as are the Anti-rebate and Department of Commerce acts. The Industrial Commission reports that "the means of giving practical effect to such laws is imperfect." Professor Wilgus asserts that "regulation through anti-monopoly, anti-rebate, and similar laws will always be ineffective."

In conclusion, the affirmative has shown that the evils of interholding, over-capitalization, and dishonesty in corporate affairs is a result of the state system of chartering, that federal incorporation restores to the government a right which is constitutionally its own, that it will cure the corporation evils, and, finally, that it will remove the injustice due to the present system of state chartering. We conclude, then, that a system of federal char-

tering for all corporations engaged in interstate commerce is desirable and should be adopted.

*RIPON COLLEGE vs. SOUTH DAKOTA  
WESLEYAN*

FIRST NEGATIVE, WILLIAM H. PRESTON, RIPON, '15

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The negative wishes in the first place to admit that there are evils arising from the present method of chartering and controlling corporations engaged in interstate commerce. We shall even go so far as to admit that there are evils which the affirmative has not pointed out, presumably for the reason that federal incorporation will not reach them. We admit further that federal action of some kind based upon the interstate commerce and general welfare clauses of the constitution is necessary and desirable. However, when the affirmative assert that this action should take the form of an act compelling all corporations engaged in interstate commerce to take out a federal charter, we part company with them.

This is the issue—Is the federal charter the best method of preventing the evils of the present trust situation? We use the word trust advisedly, for we believe that an act aimed only at corporation evils is inadequate and doomed to failure. It is incumbent upon the affirmative to show that this is not true, that it is sufficient to reach the corporate evils alone, that a federal charter will do so effectively, that it will not occa-

sion new evils within the states, and that a better remedy for present evils could not be advanced. It is our purpose in this discussion to examine the proposed federal charter plan in order to see what it will do, and what it will fail to do, and upon conclusions drawn from this examination, we shall propose a plan of regulation more efficient and satisfactory.

All corporations engaged in interstate commerce should not be required to take out a federal charter because such legislation would be inexpedient. It would be inexpedient first, because it is too inclusive. We desire to call your attention to the fact that our question provides that *all* corporations engaged in interstate commerce, large or small, law-abiding or law-defying, good, bad or indifferent, shall be required to take out a federal charter. The full force of this requirement can only be realized when the meaning of the term "Interstate Commerce" as judicially interpreted, is fully understood.

The United States courts hold that interstate commerce is that commerce which is done across the state lines, and includes the subject matter of traffic or intercourse, the fact of traffic or intercourse, and the instrumentality by which it is carried on. This means in everyday English that no person or company of any kind can ship anything across a state line, no matter what it is, or send or receive a message, or drive a horse or walk across a state line, without engaging in interstate commerce. If, then, this is what it means to engage in interstate commerce, it is manifest that only those corporations doing a strictly local business within the bor-

ders of one state, can escape. We defy the affirmative to show that the strictly local corporations would exceed ten per cent. of the 50,000 or more corporations now engaged in business in this country.

If this all-inclusive law were passed what would result? Thousands of small corporations doing an honest, legitimate business, chiefly local, incidentally interstate, would be compelled to reorganize under federal law, pay a federal charter fee, pass under the jurisdiction of the federal courts, and lay themselves liable to federal taxation annually—or abandon their interstate commerce. Undoubtedly many would abandon their commerce. All could not, for it would be disastrous under the present commercial system. For instance, the Duvall Grocery Company, of Ripon, incorporated under the laws of Wisconsin, could not buy at wholesale from Chicago without a federal charter. It could not ship a small consignment of groceries into Michigan without a federal charter.

Now the unfairness of such a situation is manifest. Why should the small corporations be punished for the sins of the large trusts and monopolies? Why should they be transferred from an adequate state charter to a federal charter designed to strike at the evils of the large corporations? Since they are largely local in character, why should they be compelled to work under rules designed for a national concern? Furthermore, since all litigation of federal corporations would go into the federal courts, they would have to endure delay and extra expense. The federal charter is unfair also to the

states, as it attempts to deprive them of their natural and long standing jurisdiction and authority over business corporations. Finally, it is unfair to the federal government itself to burden it with the control and responsibility for 90 per cent. of the corporate business of the country. In the light of these facts, does it seem expedient, Honorable Judges, to adopt a compulsory, all-inclusive federal incorporation law? Would it not be wiser to seek some other method of curing the evils of the large corporations?

But further, a federal incorporation act would be inexpedient because it would intensify our dual system of government to the point of friction and conflict between state and nation. We are aware that it is usually considered that a federal incorporation law usurps state authority, over-centralizes the business of the country, and deprives the states of their corporation tax. Honorable Judges, it would do so should the states passively submit. This we do not believe they would ever do. We maintain that they would exercise their constitutional right to charter and control local or intrastate business. This would mean that every corporation engaged in both local and interstate business, would have to take out from two to forty-nine charters, depending upon the number of states they enter. For instance, the railroad companies, the Pullman company, the express companies, the telegraph and telephone companies, would be obliged to take out in addition to the federal charter, a separate charter for every state they enter for local business. Moreover, they would have to pay an annual

corporation tax for every charter. This necessarily would be paid by the consumer. Now, Honorable Judges, since these public utilities are already adequately and creditably regulated by the Interstate Commerce Commission without being under federal incorporation, what valid reason can the affirmative give for a change? But you may say we have a Steel Trust, a Sugar Trust, a Beef Trust, a Tobacco Trust, a Bathtub Trust, and the Standard Oil Company and all its subsidiaries and these have evils that need regulating. We grant the evils and in due time will present a remedy, but we insist that a multiplicity of charters will not cure them. And again we point out that the multiplicity of corporations taxes will be borne as usual by the public.

Now the affirmative may say that the double chartering idea is absurd; we concur, yet we maintain that it would follow, because of the constitutional right of the states to charter local business and the well-known desire of the states to get the taxes. The desire to get the taxes would furnish sufficient motive as the history of state taxation plainly shows. Again the affirmative may say that such a condition is impossible. We ask them to explain how it happened that Missouri forced the Standard Oil Company of Indiana to form a new company and re-charter under the laws of Missouri before they could do local business. Manifestly it is possible and will still be possible with federal incorporation for interstate business. Finally, the affirmative may insist that it is the meaning of the question that the federal charter should cover both state and interstate business



of the corporations engaged in interstate business. To do so is to put themselves upon the other horn of the dilemma, for they must defend the usurpation of the constitutional power of the states, and the centralization of 90 per cent. of the corporate business which is 80 per cent. of the entire business of the country under federal control. If this is what the question means the states might just as well go out of business and sell their capitol buildings to a dime museum.

Now, Honorable Judges, the uniformity of law which the affirmative seeks will not be gained by intensifying the dual system. The retaliatory power of the states which obtains under the present system and protects the corporations from a multiplicity of charters and much unjust legislation, will be removed by federal incorporation for interstate commerce, and the bars will be let down for all sorts of discriminating and blackmailing legislation. What this means to business is only too apparent. Furthermore, state and interstate divisions of business are at best but artificial divisions. From this simple fact will arise untold complications of jurisdiction and, consequently, open conflict between state and nation. A state court will attempt to regulate the price of a commodity to protect local business, only to find that an interstate corporation supported by a federal decision can undersell and defy them. The federal courts will attempt to regulate an evil, find it rooted in local business, and their jurisdiction at an end. Thus it is evident, Honorable Judges, that a cure for the present evils cannot be brought about by legislation intensifying the dual

system. What we really need is to leave the dual system in the background as it is at present, and make a genuine attempt to regulate the evils of big business through the power the federal government already possesses over interstate commerce.

Now, again, a federal incorporation act would be inexpedient because there is no demand for a compulsory, all-inclusive law. All the prominent champions of a federal charter for interstate commerce corporations are of the opinion that the incorporation should be optional rather than compulsory. Ex-President Roosevelt says, "Incorporation under such an act would of course be permissive and not compulsory." Ex-President Taft takes exactly the same point of view. Jeremiah Jenks, Professor of Economics at Cornell, a strong champion of this measure, says, "A federal incorporation law, if enacted, should certainly be made permissive instead of mandatory." Such men as Judge James B. Dill, Lyman Abbott, Seth Low, and Ex-Attorney General Wickersham all declare for the optional law. Samuel Untermyer, attorney for the Pujo Committee, and Congressman E. W. Roberts of Massachusetts alone, as far as we have discovered, favor a compulsory law, but, and here is the gist of the whole matter, they would apply the law only to those corporations with a capitalization above \$1,000,000 and \$5,000,000 respectively. This would catch about one per cent., possibly less, of the corporations of the country engaged in interstate business. Now, Honorable Judges, may we call your attention to the fact here, that the affirmative is obliged under the terms of the ques-

tion to defend a law which is both compulsory and all-inclusive, a law which no prominent man openly champions, and, finally, a law for which there is no public demand. In fact there is a deep-seated prejudice against it, and the majority of our most progressive thinkers either condemn it or openly favor some other method of federal control.

Now, in conclusion, since this law is all-inclusive and works hardship to thousands of small corporations which do not need this sort of regulation, since it intensifies our dual system to the point of injustice and open conflict between state and nation, and since there is no demand for a compulsory law which is at the same time all-inclusive, we maintain that the federal government should not charter all corporations engaged in interstate commerce.

SECOND NEGATIVE, FRANK J. PALUKA, RIPON, '13

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: We wish to call your attention to the fact that in proposing any plan to eliminate the evils of corporate business, we, the negative, have just as much right to invoke assistance on the part of the federal government, if such assistance be needed, as has the affirmative, without in any way detracting from the merit of our argument. Why should we not? We are not defending the present system. Such atrocious evils as our opponents pointed out in the present system should and must be removed. We are in sympathy with the public and desire to remove the evils from which they suffer—if we

were not, we would not be here this evening to argue against the federal charter. We recognize the weakness and harmful features of the federal charter and for that reason cannot accept it.

The preceding speaker has told you that the Northern Pacific railroad has been incorporated by the federal government; he has told you that that railroad is to-day adequately controlled by the federal government;—but he has failed to tell you that the Northern Pacific to-day is one of the worst over-capitalized roads in the country.

By way of explanation the affirmative also stated that the Mitchell green-house, here in your own town, would have to take out a federal charter. To be justified in this demand, they must show us that the Mitchell green-house is such a big and uncontrollable concern that the state of South Dakota is unable to control it. They must prove that the Mitchell green-house has such gross evils that they cry out to the federal government at Washington for regulation. If they cannot prove these evils, they have no right to compel this green-house nor the thousands of other small and innocent corporations in the country to take out a federal charter.

My colleague has told you what a federal incorporation act would do. It shall be my purpose to tell you what it would not do. He has shown you that it would be all-inclusive and would work hardships to the small corporation now doing business. He has shown you that it would intensify our dual system of government to a point of injustice and open conflict between state and nation. Finally he has shown that there is no demand

for an all-inclusive, compulsory, federal incorporation act.

Our opponents have spent their time setting forth the evils of the present system and affirming that a federal incorporation act would cure them. We admit the evils and desire to point out that we are not defending the present system; hence the time devoted to the evils by the affirmative avails them nothing. My colleague has made it certain that their plan would bring additional evils with it. Now, let us see, first, if a federal incorporation act would cure the trust evils, and second, let us see if it would cure even those which the affirmative has cited.

We maintain that an all-inclusive, federal corporation act is not desirable because it would be inadequate. It would be inadequate because it would not meet the evils of the trust situation. Does anyone believe that overcapitalization, interholding and dishonesty in promotion and management are the only evils of big business? Are these the only evils under which the consuming public groans? What about unfair competition, stifling competitors to gain monopoly, discrimination in buying and selling, exclusive contracts and secret agreements, low wages and high prices? Will a federal charter cure these evils? Can it regulate unfair competition? Can it regulate monopoly? Can it stop discriminations? Can it detect exclusive contracts and secret agreements? How will it determine wages and prices? Manifestly it cannot do these things, for a charter merely creates a business corporation. Certain things may be demanded before the

charter is granted, but how about after? The evils I have cited are evils of everyday life of the corporation, not of its organization. The only recourse the affirmative has, under the terms of the question, is to revoke the charter by the long and tedious process of litigation in the federal courts. The public is already tired of this sort of thing. It wants results and it wants them quickly. It does not see how a federal charter will reduce the cost of living. But the affirmative will say that our test is unfair, that the federal charter is aimed only at the evils of corporate organization. But since these evils can readily be handled in a different way, we do not believe them sufficient reason to justify such a drastic measure as my colleague has shown the federal charter to be. But waiving this, let us see if it will really meet the evils for which the affirmative proposes it.

We maintain, in the second place, that an all-inclusive compulsory, federal incorporation act is inadequate because it would be evaded and therefore would never reach the evils which called it forth. It would be evaded because our question leaves a large loop-hole of escape for the big trusts and corporations, the very ones the affirmative wishes to reach. Now what is this loop-hole? Our question says "all corporations engaged in interstate commerce." Now let us go back to the supreme court's decision on interstate commerce. In the cases of the *United States vs. E. C. Knight Company* (156 U. S. 1.), the first case to reach the supreme court after the passage of the Sherman Anti-trust law, Chief Justice Fuller said, "That which belongs to commerce is

within the jurisdiction of the United States, but that which does not belong to commerce is within the police power of the state. . . . Commerce succeeds to manufacture and is not a part of it." Ex-Commissioner of Corporations Garfield opposed a federal incorporation act because the United States clearly could not grant a strictly manufacturing or producing franchise. Professor Jenks of Cornell says (*Making of America*, Vol. 3, pp. 225), "A manufacturing corporation as such, however large, is not engaged in interstate commerce." Professor Wilgus of Michigan University says, "The distinction between making things—manufacturing—and commerce has long been recognized and is fundamental." Here, Honorable Judges, is the loop-hole, the distinction between manufacturing or producing and commerce.

Manifestly the large trusts and corporations which the affirmative wishes most to reach do a manufacturing and a producing business as well as an interstate commerce business. Now, supposing a federal incorporation act were passed, what would the large corporations naturally do? They would separate the producing from the interstate commerce business, make two corporations, charter the producing one under the state law, and the interstate selling one under the federal law. The federal corporation would not be over-capitalized; it would not interhold; in fact, it would obey the federal law scrupulously. But, gentlemen, what about the producing concern chartered under the vicious system of state incorporation? This producing corporation, local in extent, would not

be restricted by the federal government. On the contrary it would probably be chartered under a lax state law. It would be dishonestly promoted; it would be grossly over-capitalized; it would dictate the prices; it would render no publicity; it would have secret and dishonest management; in fact, it would have all the evils of the present system—and the federal charter could not reach it. To escape the federal law, all this producing corporation would have to do would be to sell entirely within the boundaries of the state to the federally chartered distributing corporation or to some other firm or natural person. No federal or state law would be violated by such a transaction. Interholding between the federal and the state corporation would not be necessary. A community of interest is all that is required. The famous dinners of the Standard Oil Company and the Steel trust have demonstrated this. Speaking of such evasion Professor Jenks says, "This second corporation (that is, the federal) might be so organized as to be perfectly ready and willing to meet any conditions, that of publicity or non-discrimination or otherwise, without in any way opening the gate for inspection or knowledge of the workings of the really monopolistic manufacturing corporation." It is clear, then, Honorable Judges, that the federal government under a system of federal charters for corporations engaged in interstate commerce is powerless to prevent this evasion and consequently could not reach the evils which the affirmative has pointed out in the present system.

Moreover, conditions are now ripe for just such an



evasion. Industrial centralization has been going on for the last quarter of a century. Practically all the important industries are centralized in a few places. The steel industry belongs to Pittsburg and Gary, the latter city being built to gain this centralization. The beef industry belongs practically to Missouri and Illinois; the flour industry to Minnesota; the anthracite coal industry to Pennsylvania; the textile mills and the boot and shoe industry largely to Massachusetts and Connecticut. And we might carry on these illustrations of centralization until all the necessities of life are covered. Hence it would not be difficult or occasion any great expense for the trusts to separate their producing from their distributing business and charter the former under one or two states, or they may even obtain their charter, as they now do, from the state having the laxest laws.

But this is not all. The small corporations, which my colleague has shown you would be caught in this all-inclusive act, would not have the means to make this evasion. The extent of their business would not justify it. Consequently, the small corporations for which this law was not devised and to whom it would work hardship would, together with the traffic corporations, be practically the only ones caught by this federal incorporation act. And, as my colleague has shown you, the traffic corporations are already regulated by the Interstate Commerce Commission.

Now the affirmative may argue that the trusts would submit gracefully and not attempt to evade the federal incorporation act. The history of trusts and big corpora-

tions has been a series of evasions. Has the affirmative any reason to believe that big business will experience a change of heart because of the passage of a federal incorporation act? Is it reasonable to suppose that a \$500,000 corporation lawyer could not figure out this scheme of evasion which we have discovered for considerably less? Professor Jeremiah Jenks confirms this argument saying (Making of America Vol. 3, p. 227), "Should Congress make a corporation law too burdensome or rigid, the manufacturing corporations would not organize under it. If it were made compulsory, they would employ every device to avoid doing interstate business, and comparatively little would be accomplished."

Again, the affirmative may say that the states out of comity and courtesy to the federal government would refuse to charter these corporations. Does the affirmative expect the states to unite in enforcing the federal incorporation laws? Have our opponents exhibited any such confidence in the states this evening? Are we not to believe that the states would charter the corporations and take the taxes? And, after all, could the states refuse charters to producing corporations which conformed to their laws? Certainly not. Therefore, Honorable Judges, we maintain that an all-inclusive, compulsory, federal incorporation law should not be adopted because it would be inadequate, easily evaded, and, consequently, useless.

In conclusion, gentlemen of the affirmative, to justify a federal incorporation act, we demand that you show the necessity of including the small corporations; that

you prove the dual system of government will not be intensified; that you demonstrate the demand for a compulsory law. Further, we challenge you to show that it cannot and will not be evaded, that it will positively cure the evils for which you advance it. Until you do this, your plan remains inexpedient, inadequate, and unwise. Until you do this, there is absolutely no reason or justification for an all-inclusive, compulsory, federal incorporation act.

THIRD NEGATIVE, WILLIAM A. ZINZOW, RIPON, '15

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: Let us consider first the arguments that the gentlemen of the affirmative have put forth so far in this debate. Their first speaker told you that there was something wrong with the present system of state chartering. The only reason that the gentleman has advanced so far against the present system of chartering is the fact that some of the large corporations have certain evils. Since these corporations are chartered by the states he concludes that the states should lose the right of chartering any corporations doing any interstate business. Their second speaker told you that the federal government must charter the corporations in order to cure these evils in the few large corporations. The third speaker told you how the evils would be remedied by a federal incorporation act.

We agree with them when they say that there is something wrong with the large corporations and that the federal government should take some action to cure

these evils, but we do not admit that this regulation should take the form of a federal incorporation act. We shall show you presently that a federal charter is not necessary to cure the evils in the large corporations.

We have shown you that an act such as the affirmative is obliged to defend would compel thousands of small corporations, that need no federal regulation, to take out a federal charter and work under the rules and regulations designed for the large trusts. Now the affirmative must show that this is necessary to cure the evils in the present situation. They have not done so. We have shown you that a federal incorporation act for corporations engaged in interstate commerce would be evaded. The gentlemen of the affirmative have argued that the decision in the E. C. Knight case has been overruled by the Addison Pipe case, but in the very same breath they admitted that the Addison Pipe case involved corporations doing business in several states betraying immediately the reason for federal jurisdiction. Whereas the E. C. Knight case decision shows clearly that there is no federal control over local or purely state business, and for this reason the producing concerns, as my colleague has shown, will escape. They will not do any business outside of the state and hence will not be engaged in interstate commerce, and so would not come under the range of the Addison Pipe decision nor under a federal incorporation act as the affirmative has proposed it to-night. This producing corporation would have all the evils of the original corporation transferred to it, so, gentlemen, your law would not reach any of the evils

in the present trusts. Now, Honorable Judges, of what use is the law going to be if it is certain to be evaded? It will merely be more superfluous legislation for which there is no demand.

So far in this debate, then, the negative has shown you that a federal incorporation act would be inexpedient, because it is all-inclusive, because it would intensify the dual system of control to a dangerous degree, and because there is no demand for an all-inclusive, compulsory act. We have shown you that it would be inadequate, because it would not reach the trust evils, and because it would be evaded and so would not reach the evils for which it was designed. Now finally, we shall show you that an all-inclusive, compulsory, federal incorporation law should not be adopted because it is unnecessary.

A federal incorporation act is unnecessary because the federal government already has the power to cure the trust and corporation evils by a series of general and specific regulations. That Congress has enough power is evidenced by the interstate commerce and general welfare clauses of the constitution. Our plan is, then, first, to leave the chartering of the corporations with the states, and, second, to provide for enough federal control to cure the evils. This would not intensify our dual system of government, but would preserve the careful adjustment and balance of power between the state and nation provided for in the constitution.

Now as to the details of our plan. Let us consider first the general regulations. Congress should as a be-

ginning supplement the Sherman Anti-trust law so as to define what is reasonable and what is unreasonable restraint of trade. Everybody admits that this is possible. This would catch such evils as unfair competition, the stifling of competitors to gain monopoly, discriminations of all kinds, exclusive contracts and secret agreements. The federal charter does not touch any of these evils, and so far the Sherman law has been inadequate. Then we should advocate the following regulations: A law against over-capitalization by any corporation whatsoever, providing for a limit of ten per cent. over and above the actual physical valuation or visible assets of the corporation as the case may be—this ten per cent. to be for good will and skill in management. A law prohibiting interholding and interlocking of directorships. A law providing for the regulation of prices where it is held that there is just reason for complaint. A law providing for the fine and imprisonment of officers, directors, and promoters of corporations convicted of dishonest practices or the violation of the federal regulations.

As a second part of our plan we advocate some specific laws providing for the enforcement of the general regulations we have outlined. First, there should be a federal commission for corporations, similar in extent and power to the Interstate Commerce Commission, having jurisdiction over all corporations not now regulated by the Interstate Commerce Commission. The powers of the latter commission should be extended in order to enforce the new regulations against traffic corporations. The Corporation Commission should have the power to

compel absolute publicity of all the affairs of the corporation. They might compel annual reports covering any subjects upon which they desired information. They might give hearings upon complaints entered against any corporation and should have power to initiate investigations themselves as the Interstate Commerce Commission now does. Obedience to their recommendations should be required despite any litigation until their decision was reversed by the Supreme Court.

A further method of enforcing the regulations against corporation evils is federal regulation and utilization of the stock exchange. Manifestly no corporation can float itself or long continue in business without the right of placing its stock upon the market. It is a well known fact that over-capitalization and dishonesty in promotion, the two great evils of corporate organization, are entirely dependent upon marginal gambling, wash sales, and the power of dishonest promoters to manipulate the market. We propose to prohibit such transactions and to enforce the actual transfer of stock in all sales made upon the floor of the exchanges. Moreover, we should prohibit allowing the sale of any stock of any corporation not having gained the approval of the Commission of Corporations. This is an especially valuable feature, as the commission is the judge of conformity to the federal law against over-capitalization. Thomas W. Lawson, an expert stock manipulator, believes and loudly affirms that the regulation of the stock exchanges alone will solve our problem. The Pujo committee has also expressed its faith in this idea by introducing into Congress a bill

providing for the regulation of the stock exchanges.

And further, we shall emulate them by providing as a penalty for the violation of the federal regulations, the rulings of the Commission of Corporations, or the prescribed method of promoting and selling in the stock exchanges, that Congress shall authorize the Postmaster General to close the mails, after due notice, against offenders at the request of the Commission of Corporations. This means that there could be no escape from federal control, for practically no business in the country can live without the use of the mails. Precedent and court decisions have established the fact that there is no appeal from the order of Congress to close the mails against any person or firm on the grounds of public welfare.

Now what are the particular merits of our plan? First, it provides for complete publicity. The power of publicity to cure evils is universally recognized. Often it is sufficient of itself to put a stop to corrupt practices. Where it is not sufficient we have provided an effective method of enforcing the law. The affirmative plan, however, shows a vital defect in that it is open to a certain and disastrous evasion. This the gentlemen of the affirmative have not yet disproved; we defy them to do so.

A second merit of our plan is that it throws the burden upon the corporations to prove to the Commission of Corporations that their capitalization and management are within the bounds of the law. This mere shifting of the burden of proof will save an immense amount



of time for the commission and endless litigation in the courts, whereas, the affirmative with the charter plan must depend on litigation with the burden of proof on the government to enforce the terms of the charter.

Another merit of our plan is that the publicity as to capitalization and management and the control of the stock exchange will protect the public and the investor from watered stock and unscrupulous manipulation. Under the present system, and also, Honorable Judges, under the federal charter, the welfare of the investor is ignored. Another good point of our plan is that, while protecting the public, it harms no legitimate business. It does not punish the small corporations for the sins of the big ones. It provides all the uniformity necessary, a uniformity of justice. The uniform charter plan of the affirmative is a positive weakness because it does not give the diversity which the varying conditions of business demand. The state charter does, as allowance is made for local conditions.

Again, our plan does not rob the states of any of their fundamental powers. It allows the dual system to sink into the background, while the affirmative plan must either annihilate the states or intensify the dual system to the point of injustice and open conflict between state and nation. And, Honorable Judges, any plan which will settle our trust and corporation difficulties without stirring up the old fight over states rights is certainly desirable. The particular glory of our plan is that it does this. And, finally, our plan reaches all the evils, and does so without introducing new evils.

The affirmative plan, as we have shown you, places a premium upon dishonesty and evasion, and does not reach the evils. The producing concerns which so easily escape their plan have no recourse but to submit to ours, for they must get approval of their capitalization before placing their stock on the exchange, and they must sell their stock in order to do business. Our plan, then, reaches all the evils which the affirmative have cited, and reaches them effectively. Moreover, it reaches the trust evils which a federal incorporation act never could touch. Manifestly, our plan is superior at every point of contact. What, then, is the conclusion? In the light of the facts, are we not justified in saying that it is this? An all-inclusive, compulsory federal incorporation act is unwise legislation because it is inexpedient, inadequate, and unnecessary.

FIRST NEGATIVE REBUTTAL, WILLIAM H. PRESTON

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The gentlemen of the affirmative have ignored our contention that this law will be all-inclusive. They are trying to escape a part of their responsibility by talking about something else. They apparently have an abundance of time to condemn state systems of chartering but no time to explain why the federal government should charter all the small corporations. The gentlemen fully realize the weakness of their position, and hope you will overlook it if they say nothing about it. But we insist that their plan is all-inclusive and we defy the gentlemen to prove that it is not, or else to show

valid reason why it should be all-inclusive. We have shown that such a law would mean reorganization of the business of the small as well as of the large corporation, have shown that it would mean an added taxing power, have shown that it would mean delay and extra expense in all litigation because they would have to go into the federal courts. And, Honorable Judges, we wish to point out that they have not denied a single one of these contentions.

But further, can the gentlemen show any justice in punishing all for the sins of the few? By the law which they propose, your neighborhood industries will all be compelled to take out a charter at Washington. They have said that the little Mitchell green-house would be obliged to take out a federal charter and compete on the same basis as the million dollar concern. We ask you whether the Mitchell green-house has such evils or is so unwieldy in its operations as to need the paternal control of the nation. This, however, is the position taken by the affirmative this evening.

The gentlemen have failed to meet our contention that the dual system of government would be intensified by the federal charter. In my first speech I pointed out that the federal charter would either intensify the dual system or rob the states of the power they already possess over the business of the country and centralize it all under the national government. It is a dilemma which the gentlemen of the affirmative face, and, since they deny that the dual system would be intensified, they must prepare to defend the robbery of power from the

states. The gentlemen must sanction and defend the placing of ninety per cent. of the corporations which do eighty per cent. of the entire business of the country under federal control. This means practically the annihilation of state control over business. It deprives them of the right to charter corporations which do any interstate business, no matter how much or how vital to the welfare of the state their local business is. If ninety-five per cent. is local it makes no difference for the five per cent. tips the balance of control. The constitutional right of the state to control local business is clearly infringed upon. Moreover, there is no hard and fast boundary line between state and interstate business. As we have shown, this distinction is at best an artificial one. If once the federal government begins to usurp authority now exercised by the states the result will be friction and conflict until the federal government takes everything. Thus we see that the ultimate result when the intensification of the dual system is rejected is usurpation of the constitutional power of the states and undue centralization of power in the hands of the federal government. As we have shown, it is better to leave the dual system in the background as it is now, and adopt a system of federal regulation which will not arouse the old fight over states' rights. We have shown that such a system is possible and that there is a demand for it. While, on the other hand, a federal incorporation act is inadequate and nobody wants such an all-inclusive, compulsory law, not one prominent authority being cited in its favor.

Therefore, because the federal charter is all-inclusive and works injustice to the small corporations, since it either intensifies the dual system or usurps the constitutional powers of the states, and since nobody but our opponents really wants such a law, and because it can be easily evaded, and because it is unnecessary anyway, we maintain that a federal incorporation act should not be adopted.

SECOND NEGATIVE REBUTTAL, FRANK J. PALUKA

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: Our opponents admitted that the control of local industries should be left in the hands of the local power. They also stated that the power issuing the charter has complete control over the corporation. It is evident, then, that if the small, chiefly local corporations are compelled to take out a federal charter that the control of these local industries will be taken out of the hands of the local power. There are thousands of small, unoffending corporations located on or near state lines which of necessity do interstate business. Yet the affirmative would have all of these relinquish their state charters and pass under federal control.

The affirmative also stated that the federal government would have to investigate the corporations before granting them a charter. We agree that this would have to be done in order to make sure that the corporation was all right before the charter was granted. It would take a day for a commission to inspect the workings of a corporation. There are at least five hundred thou-

sand corporations in the United States most of which would have to take out a federal charter. The only consolation in passing such a plan as the affirmative proposes would be that each of us here this evening would get an appointment on such a commission.

Moreover, we have shown you how the industrial conditions to-day, more than ever before, favor an evasion of the federal charter on such terms as the affirmative proposes. We have shown you how easily the proposed law would be evaded and have challenged our opponents to disprove this contention. They have not as yet done so. The history of trusts and corporations, as every one knows, has been a series of evasions of law and defiance of government. Would not the big trusts and corporations take advantage of the loop-hole in the plan proposed by the affirmative? Of course they would. We defy the affirmative to prove the contrary. Certainly they would when by so doing they could incorporate under lax state laws; when by so doing they could overcapitalize and water stock with impunity; when they could hold stock in other corporations and protect their monopoly; when they need render no publicity; when they could carry on secret and dishonest management; when, by having these privileges, monopoly, high prices, and millions are before them.

But for the sake of argument let us assume that the big corporations would submit gracefully and not evade the law. What assurance does the federal charter give of preventing evils which may rise later? None. New and powerful corporations, built from the foundation to

evade the federal law, would spring up and perpetuate the evils of the present system. Gentlemen, in the light of these facts, why should we adopt such an impracticable and ineffective law?

We have challenged the affirmative to show the necessity of including the small corporations. They have failed to give us a valid reason for this. We maintain that to compel the small corporations, without any reason, to pass under federal control would be an unjust and unwise action. A small local concern would certainly be at a disadvantage if it were placed on a footing with the United States Steel Corporation, and made subject to the stringent checks designed for such gigantic concerns. With the advantages of large scale production the large corporations could then underbid and undersell the small competitors and compel them to close their doors. Again, the federal courts would be continually occupied with the litigation of the big offenders and the small corporations would have to wait years to get recognition at the bars of justice. We cannot have uniform rules and regulations for large and small corporations the country over.

The federal charter is not necessary. The affirmative will admit that Massachusetts a few years ago passed a model corporation law. The bad corporation law of New Jersey, of which our opponents told you so much, has already been reformed. The law of New Jersey no longer allows interholding. This reforming tendency is manifest in Minnesota and in many other states. The supplementary federal legislation which we have pro-

posed together with the revised state laws will obviate the necessity of the federal charter. As to the argument that corporations obtain their charters in states having lax laws and then do business in other states—if the situation becomes too serious all Congress needs to do is to pass a law which will require each corporation to obtain its charter from the state in which it does the most business or maintains its main offices. Many of the evils mentioned will then be removed.

Now in conclusion, we have shown that a federal charter will work hardship to thousands of small corporations which are honest and need no federal regulation. We have shown that it would not meet the evils of the trust situation; that it could be easily evaded and would not cure the evils for which it is proposed. When challenged to meet our argument of evasion, the affirmative has made no answer. We have shown you further that “engaging in interstate commerce” is not the proper line of demarcation which a remedy for the corporate evils should follow. There are big corporations with grave evils on either side of this line of demarcation. If we need any cure, that cure must be applied on both sides of the line. Yet it must not molest small, legitimate business. For these reasons, Honorable Judges, we maintain that all corporations engaged in interstate commerce should not be compelled to take out a federal charter.

THIRD NEGATIVE REBUTTAL, WILLIAM A. ZINZOW.

Mr. Chairman, Honorable Judges, Ladies and Gentle-



men: The affirmative has stated that the issue of this debate is: federal control or state control of corporations engaged in interstate commerce. We take issue with them on this point because we do not believe that such is the true issue. We admit that some form of federal regulation is necessary to cure the evils in the present large trusts and corporations. But we maintain that this regulation should not take the form of an act compelling all corporations to take out a federal charter. We have proposed a method of reaching these evils that does not have the inherent evils of a federal incorporation act. The real issue of this debate is: Which form of federal action will best reach the evils existing to-day.

Now what has the negative put up as a reason for such a drastic measure as they are proposing this evening. They have told you of certain evils in the present situation and have stated that federal action of some kind is necessary. We agree with them in that and we have a perfect right to propose any form of federal regulation as long as it is not a federal charter. They have told you that a federal charter is necessary to cure the evils in the trusts. We have proposed a plan which will remedy the evils just as well and we believe better than their plan. We defy them to show us where our plan will not reach the evils. Our plan will cure all the evils that they have cited, and, moreover, it will reach certain evils that their plan could not touch. The federal government can put a stop to all the evil practices without compelling the corporations to take out a federal

charter. Their whole debate can be summed up in this way: They see certain evils in the present trusts and large corporations and would fly to the federal government for aid. Because these large trusts have evils they would compel all corporations to take out a federal charter as long as they did any interstate commerce.

We have argued that such a law would include thousands of small corporations that do not need federal regulation. They have answered this by saying that some of the small corporations have evils also. They have told us of such possibilities but have not cited a single case of a small corporation having evils that could not be reached by local authorities. They have cited certain lax state laws, but have not given you any instances of small corporations that have taken advantage of these lax laws so as to harm the public. These small corporations could have nothing to gain by such acts because their business is almost entirely local in character and everybody interested in the business knows all about it. We ask the affirmative to give us some valid reason for compelling these small corporations to take out a federal charter and to work under rules designed for large trusts and corporations.

We have told you that such an act would intensify the dual system of control to a dangerous degree. They have tried to answer this argument by saying that the federal government is superior in power to the states and any state law in regard to these corporations would be useless. They overlook the fact that the state is supreme in matters of local business and has the right to

compel all corporations that do a local business within its borders to take out a state charter or license for that business. And, as we have stated before, state and interstate business is not a natural division, and, therefore, there will be confusion and conflict of authority. The gentlemen have not yet disproved this, and, therefore, the argument still stands.

They have stated that we are not debating authorities. That is very true but the authorities ought to know something about the matter. If the great authorities of the nation do not favor such a plan, there must be something wrong with it.

But now we come to the vital defect in the plan of the affirmative. It will be evaded. We have shown you very clearly that such a law would be evaded and the gentlemen have not yet disproved this for the reason that they cannot. We defied them to show that this law could not and would not be evaded. Throughout the debate they have maintained a discreet silence on this subject. It is true that their law would go into force, but it would not reach any of the evils that it was designed for. The fundamental reason for which they have proposed this plan is that it will cure certain evils, and now we have shown you that it will not cure these evils but will even make them worse. Of what use will their proposed plan be? It will be of absolutely no use whatever. We maintain that for that reason alone it should not be adopted. It would simply be more superfluous and harmful legislation.

Now finally, we have shown you that our plan cannot

be evaded because these producing concerns must be approved by the commission before placing their stock on the exchange, and these large, million dollar corporations must sell their stock on the exchange because they could not sell it elsewhere. Honorable Judges, you would not think of buying the stock of any corporation which could not be sold upon the stock exchange. We plead with the affirmative to show us how our plan could be evaded. It is impossible of evasion and therefore our plan is better than theirs.

Here, then, is this debate; we have shown certain weaknesses in their plan; we have shown that their plan will not reach the evils; and, finally, we have given you a plan that will reach the evils and will reach them without introducing the new evils of a federal incorporation act. The question,—which plan is the best,—can only be answered in one way, and that is that the negative plan meets the situation better and more effectively than the plan of the affirmative. For these reasons, then, we maintain that all corporations engaged in interstate commerce should not be compelled to take out a federal charter.

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# **GOVERNMENT OWNERSHIP OF RAILROADS**



# GOVERNMENT OWNERSHIP OF RAILROADS

## *OTTAWA UNIVERSITY vs. KANSAS WES- LEYAN UNIVERSITY*

Ottawa University and Kansas Wesleyan University met in annual debate at Ottawa, February 21, 1913, each college being represented by two men. The Ottawa affirmative won by a two to one decision. The tactics of the affirmative are simple but interesting. As the leader of the Ottawa team expressed it, "Our policy was to shave the line as near as possible. We stated facts, which were admitted by the best railroad authorities—of course placing them in the best atmosphere—and then announced that we had proved our case."

The question as discussed follows: "*Resolved*, That Congress should enact legislation looking toward the purchase of the railroads by the government. Constitutionality waived."

The speeches were contributed by the various debaters. Suggestions as to the bibliography came from Mr. C. O. Hardy, Coach of Debating at Ottawa University, as well as from the debaters.



# GOVERNMENT OWNERSHIP OF RAILROADS

*OTTAWA UNIVERSITY vs. KANSAS WES-  
LEYAN UNIVERSITY*

FIRST AFFIRMATIVE—LELAND H. JENKS, OTTAWA UNI-  
VERSITY, '13

Honorable Judges, Ladies and Gentlemen: "He who controls a nation's highways," said Napoleon, "controls the nation." The railway is the highway of the modern world. Upon its services depends the prosperity of every community. It most vitally affects the business success of every individual. So completely interwoven has the railway become into the very warp and woof of the modern industrial system, that without it the whole would immediately collapse. So important, indeed, are these services which the railway renders to society, that there has always been recognized a most intimate connection between the railway lines and the government. In one way or another the railways of every country in the world have been brought under the more or less direct control of their respective governments. And according as this control has been effective or ineffective, the railways of the world fall into two general divisions. Either the government has furnished large amounts of



the necessary capital in the form of immense grants of land and guarantees to private companies and retains partial control of the railway lines through some system of regulation, or else, as is the practice in practically every country of the civilized world except the United States and England, the government has purchased the railways outright, and manages them directly in the interest of the entire country.

- Every country in the world has tried the plan of regulation. In all, it has failed, and all except the United States and England have largely abandoned it for a plan of government ownership. But in the United States, we have been trying all these years to secure satisfactory and equitable service from the private railways, through the same old method of regulation. Railway commissions in every state have tried their hands at the problem; for twenty-five years we have had an Interstate Commerce Commission at Washington devoting its entire time to the task. But yet the railways of our country under private ownership are not to-day giving the public service that is either satisfactory or equitable. Their corrupting influences are daily a menace to the civic life of the nation. Their reckless operation daily imperils the life and comfort of the passengers. Their tremendous monopolistic power to create favorable or unfavorable business conditions by discriminations in rates is daily the cause of injustice and favoritism in every field of business. And for these reasons, Honorable Judges, we believe and contend that Congress

should take steps looking toward the purchase of the railways by the government.

It is not necessary for the affirmative in supporting this proposition, to show that the present system of ownership is utterly and completely bad. Neither does the burden of proof rest on us to show that government ownership would be absolutely free from fault. Utopian perfection is not to be expected from either, or any system in the immediate future. The real issue here tonight must be, "Which would be better?" and the affirmative simply contend that the plan of government ownership would be enough better for the country than private ownership to warrant the proposed steps. A secondary issue is: Can government ownership be attained in any practicable way, without involving the country in graver evils than it is intended to remedy? The affirmative proposes to meet both of these fundamental issues squarely. Leaving the question of practicability and efficiency to be discussed by my colleague, I invite your attention to the proposition: "Which is better, government ownership or private ownership?"

It is needless to weary the audience with a detailed account of the corrupting effects of the private system of railway ownership on our politics, our judiciary, or the public press. For months you have read the searching indictments levied by the muckraking magazines against the railways in these respects, and to the truth of the charges therein brought, the fact that they have not been successfully disputed is ample witness. That

these evils exist is simply due to the fact that the railways of the country are under the control of private owners actuated by a desire for private gain at the expense of the public and their competitors. As long as there is private gain to be made by corrupting, there will be magnates ready to corrupt, and legislators, judges and editors ready to be corrupted. But imagine, if you can, a government-owned railway subsidizing the press when it had no consequent profit in view, or influencing judicial decisions which could profit no one, but all the people alike.

But also from the standpoint of safety and comfort of passengers, the private railway system stands indicted before the bar of public opinion. Its reckless disregard for human welfare, convenience and safety is alone sufficient to justify the contention that private ownership of the railways is undesirable. Statistics compiled by the Interstate Commerce Commission for the year ending June 30, 1912, show that during the year the deaths of over 10,000 people resulted directly from railway accidents, and over 160,000 injuries were inflicted of greater or less degree. When the number of passengers killed per passenger-mile in the United States outnumbers those killed on the state-owned roads of Germany in the ratio of 7 to 1,<sup>1</sup> it may well be wondered how long we must wait on private initiative to better our record. Even railroad apologists acknowledge that this frightful death record is inexcusable. But the

<sup>1</sup> Debater's Handbook. Figures corroborated from official sources.

improvement of the situation is not to be looked for as long as every interest of the railway owners is opposed to the prevention of the accidents. It is actually cheaper to allow these terrible records to be maintained from year to year, and to pay some recompense in the form of damages than to install the safety appliances and rules of discipline necessary to reduce the death toll. This wanton disregard of life and limb seems to be inherently bound up with the system of private operation—a system designed to secure the maximum of private gain.

But far-reaching as are the evil effects of the railways in these directions, they do not begin to compare in magnitude with the power of the railways to crush or prosper every business enterprise in the country. A simple order from the railway manager may destroy the business of an individual, may wreck the prosperity of a community, may hamper and impede the industrial development of an entire state. Nay more, for the very food we eat and the clothes we wear, we are absolutely dependent upon the railways of the land. Transportation is a necessity of life to every citizen. Even if the power to determine its cost were a power wisely and benevolently used, it would still be too great to allow to remain under the control of private individuals. Society itself is the only safe and proper administrator of a power which affects its members so vitally.

But this power over the business interests of the country so largely entrusted to private owners, has not been either wisely or benevolently used. There is little or no complaint that the general level of rates is unduly or ex-

- orbitantly high. The cut-throat competition of the railways themselves has largely tended to reduce the level of rates to a comparatively reasonable average. But the complaint is, and the evil is worse, that rates are not equitable and just; that discriminations are being practiced which are enabling favored shippers, favored markets, and favored territories to prosper greatly at the expense of their competitors and the general public,—
- discriminations which have been an inevitable outgrowth of private competition in the railway business to secure the maximum of profit, and which neither the government nor the railways themselves have been able to prevent.

A few examples will serve to illustrate the point. New Orleans at a distance of about 900 miles from Kansas City is in the center of a prosperous fruit and canning industry. So to enable canned goods from Kansas City to compete on the local markets, the railways make a rate of thirty-seven cents per hundred pounds on canned goods. Wichita, however, only 200 miles away, can get fruit from no nearer point than Kansas City, and her rate on the same goods is thirty-five cents per hundred, only two cents less than the rate to New Orleans for one quarter the distance. However, when it comes to fresh meats, the conditions are just reversed. Wichita is the center of a cattle-producing country and has flourishing packing-houses, while New Orleans lacks these advantages. So Wichita gets fresh meats from Kansas City for 18½ cents per hundred, while New Orleans must in this case pay three times as much, or 55 cents. In other

words, the railways charge their highest rates against the communities where the products are needed most.

From San Francisco to Tucson, Arizona, a distance of 975 miles, the rate on Hawaiian sugar is \$1.00 per hundred pounds. El Paso, however, 300 miles farther on, gets sugar for only 60 cents per hundred, and New Orleans, 1100 miles still farther and 1500 miles from Tucson, is charged only 65 cents for the entire distance from San Francisco. The Southern Pacific Railway will actually carry sugar through Tucson and 1500 miles beyond, and charge 35 cents less for the privilege than it would have charged to switch the car off at Tucson. But more—that car can go clear across the country to New York City, and still be charged five cents less than if it had stopped at Tucson. I make these statements on the authority of Senator J. L. Bristow.<sup>1</sup>

We shall cite one more illustration which will show the unjustifiable discrimination in commodity rates. Copper is a very valuable commodity, being worth by pound more than ten times as much as the same quantity of wheat or corn. Yet the rates on copper from the Missouri river to New York are 20 cents per hundred pounds, while corn and wheat must pay up to 28 cents for the same service. And the rates on copper from

<sup>1</sup> In a speech delivered in the senate in April, 1911. Later figures received in letter after debate from the secretary of the Interstate Commerce Commission indicated some changes in the many instances he cited. However, in most cases there still is some, if less, discrimination. No one need feel embarrassed for want of striking instances, as there are plenty of them in every locality.—L. H. J.

Utah to Omaha are even less than those on common junk. Of course these rates are offered to any one who may desire to ship copper. But as practically all copper-production is in the hands of two great trusts, these rates are in effect nothing more nor less than an enormous rebate to the trusts.

These are but a few instances, Honorable Judges, picked at random from hundreds of others cited by Senator J. L. Bristow, Samuel O. Dunn, editor of the *Railway Age Gazette*, and Prof. W. Z. Ripley of Harvard University, to prove the widespread and insidious character of the various forms of discrimination. Clearly if such rates as these on copper are remunerative rates, the rates on grain and other articles must be oppressively exorbitant. While, on the other hand, if the copper rates are non-remunerative, the copper trusts are receiving an enormous rebate from the railways which leaves a large hole in their earnings, which must be made up by excessive charges on some other commodities. In either case it is clear that the general shipping public is being compelled to pay for these various kinds of discrimination.

These discriminations which we have cited, have arisen as a necessary outcome of our policy of enforcing competition. That they exist openly and flagrantly to-day, is prima facie evidence that our system of regulation is powerless to relieve the conditions which exist. And the opinion of authorities leads to the same logical conclusion. Samuel O. Dunn, editor of the leading railway magazine in the country, after admitting that flagrant

railway abuses and gross discriminations actually do exist to-day, adds this significant comment, "And the worst part about it is, that under the present laws, both the railways themselves and the Interstate Commerce Commission are powerless to prevent them." The Commission has possessed many and extensive powers in the past. In a limited field it has done much to bring the railways and the public into closer harmony. But it cannot reach these discriminations in rates as long as there exists the competitive system of private ownership which gives rise to them. And more, no possible scheme of extension of its powers can be devised which will enable the Commission to remove these unjustifiable discriminations from the railway system. In the words of Martin A. Knapp, former chairman of the Interstate Commerce Commission, and now head of the Commerce Court, "It is impossible to conceive of the absence of discrimination in the presence of competition."

The reason for this condition is clear from an examination of the nature of railway competition. The railway business demands an enormous investment of capital, and most of the expenses go on whether the business done is large or small. The extra expense occasioned by the carrying of a given shipment of copper or corn is an insignificant part of the total cost of running the road. So under conditions of competition, it pays the railway manager to accept at a very low rate shipments which otherwise would go to other roads, so long as the additional shipments pay their own added expense. But if this is done, it is clear that shipments which are non-



competitive, must pay a much higher rate, in order to bear the entire burden of the general and fixed expenses of the road. Discrimination of this sort is inevitable under conditions of competition, and only a consolidation of railroad interests under the ownership of the government can restore equitable business conditions.

Thus we have found that our present railway system is characterized by a corrupting tendency in politics and in the public press, which has its origin and which is inherently bound up with the system of private ownership for private gain; that it is maintaining a deplorable death-record from year to year for the cold-blooded reason that it is cheaper to do so; and we find that it is possessed of a tremendous and uncontrollable power over the rates of transportation which enables it to dictate the business policy and industrial prosperity of every section of the country. And we find that in the exercise of this power, the railways have been compelled by competition, to make rates that are discriminatory against non-competitive points and to show favoritism to large shippers that has worked hardship and ruin to their smaller competitors. But through all these evils there rings the same dominant note. Satisfactory relations between the public and the railways have not been reached, because their respective interests have nothing whatever in common. The public demands just and satisfactory service; the sole aim of the railway owner is the securing of the maximum of profit. It has been shown that it is impossible to reconcile the aims under private ownership with state regulation. But since the maximum of public serv-

ice is provided on the state-owned roads of other countries, and those nations are free from the evils we have been considering, the conclusion is inevitable that government ownership will furnish us too with a solution of our problems; that only when it is attained can we expect to have a rational and equitable transportation system; that the best interests of the entire country for the future demand that Congress should take steps looking toward the purchase of the railways by the government.

SECOND AFFIRMATIVE, SAM MARSH, OTTAWA UNIVERSITY,  
'14

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: We have shown you, in the course of our argument this evening, that our present system of private railways is chiefly characterized by its evils; that these evils are so closely interwoven into the system of private operation for private gain that they are beyond the power of the Interstate Commerce Commission to regulate, and can only be corrected by a change of system.

Gentlemen, with these facts established, there remain but two phases of this subject to be considered: first, can we purchase the railways and operate them as cheaply as private individuals, and, second, in the light of foreign experience with state railways, and our own experience with other government enterprises, would we be justified in doing so?

First, let us consider briefly the proposition of purchasing and financing the roads. The affirmative proposes to show that government ownership and operation under

present conditions will cost considerably less than private ownership and operation. Our railways are capitalized at \$14,000,000,000, not counting the stock and bonds held by the railroads themselves, and the people pay annually over \$750,000,000 as interest and dividends on this enormous investment. Now, suppose the government should issue \$14,000,000,000 in bonds to buy the roads, what interest would the government have to pay? According to quotations in to-day's paper the government can float bonds at two per cent., rated at par. None of the government bonds bear more than three per cent. interest. At present the government is able to keep nearly \$1,000,000,000 of indebtedness outstanding, much of it above par, at an average interest of less than three per cent., and this indebtedness is secured by nothing but the taxing power of the government. Now, the railroad bonds which the affirmative proposes that the government should issue would have back of them better securities than this. They would be secured by the physical value of the railroad property, by the earning power of the roads, and by the credit and taxing power of the government. It seems to us extremely conservative, then, to say that three and one-half per cent. would be an ample rate of interest to render such bonds a desirable investment. The interest on \$14,000,000,000 at three and one-half per cent. would be less than \$500,000,000, (a saving of over \$250,000,000, or one-third the cost of financing the roads.)

There would also be a great saving in the operation of the roads. Numerous presidents and higher officials

of the private railways, drawing fifty and a hundred thousand dollars per year, would not be needed under our federal system. Heavy fees for lawyers would not have to be paid. One of the greatest savings, moreover, would be in doing away with useless advertising. Under our present system of private railways, where the life of a railway depends upon its ability to outdo its competitors, the policy of advertising and soliciting for business must be carried to its fullest extreme. It is estimated by our railway authorities that over \$7,000,000 is annually expended in this wasteful manner, which, under a system of government ownership, would be conserved to the people in the form of more efficient service.

The uneconomic policy of reduplicating lines which is necessary under a competitive system would be a thing of the past. For instance, at present there are three trains which run from Sioux City to Des Moines, all leaving about the same time. No one of them has business enough to justify the carrying of a sleeper so that passengers have to sit up during the night. Any one of them could carry all of the passengers in the equipment now used by one, and would have sufficient patronage to pay to carry a pullman. Again, it would not be the policy of the government to run all of its limited trains from Chicago to New York at the same hour for fear of losing passengers. It would utilize service so that limited trains could be run at different hours in the day. It would be possible to lessen the number of trains on the parallel lines and increase them on the branch lines.

These are but a few examples of the saving that

would be accomplished under a system of government ownership. The best, however, has been reserved for the last. It would do away with the present practice of circuitous routing which has become such a common form of waste under the private system. Recent examples of such wasteful transportation are abundant. A few typical cases, however, will be sufficient to show how common the evil is. President Ramsey, of the Wabash, testified that in competition with the Pennsylvania Railroad "they sometimes haul freight 700 miles around to meet a point in competition 200 miles away, and that half of the enormous business between Pittsburg and Philadelphia is carried in this wasteful manner." Chicago and New Orleans are 912 miles apart, and about equally distant from San Francisco. The traffic manager of the Illinois Central states that that company "engages in San Francisco business directly by way of New Orleans from the Chicago territory, and there is a large amount of that business, and we engage in it right along." Wool from Idaho and Wyoming may move west 800 miles to San Francisco, and thence by way of New Orleans over the Southern Pacific route to Boston. This case represents a superfluous haul of 2,000 miles between two points 2,500 miles apart. Goods moving in the opposite direction from San Francisco have been hauled to Omaha by way of Winnipeg, journeying around three sides of a rectangle in so doing. Between New York and New Orleans nearly one hundred all rail lines may compete for business. The direct route is 1,340 miles, but goods may be carried 2,051

miles by way of Buffalo, New Haven, Indiana, St. Louis, and Texarkana. Thus, you can easily see, gentlemen, that the most striking characteristic of our private railway system is waste and inefficiency. Under government ownership this tremendous waste would be converted into savings and returned to the people in the form of more efficient service.

Now, let us consider the experience of foreign countries with government ownership of railways. Have other nations been successful in the enterprise or not? Gentlemen, if government ownership of railways had never been tried it would be a different proposition for us to contend that the United States should own the railways, but it has been tried, and has proved a decided success. It is a fact worthy of our consideration that the United States and England are the only first class nations in the world that have not adopted in some measure the system which we advocate to-night. Moreover, we find that the evils of our private system are the same evils that led other nations to abandon their private railways. Then, in showing the success of state railways in Europe, we shall not burden your minds with a comparison of European and American freight rates. Such a comparison would be absolutely unreasonable. Why? Simply because those rates are not made under similar conditions. In Europe we must reckon with the collection and delivery of the freight similar to the express in the United States, with the carrying of more manufactured goods than raw material, greater density of traffic, shorter haul, etc. It is such conditions as these

that render a comparison between the countries unreasonable. We contend that the only true comparison is a comparison of private-owned and state-owned roads in the same country. Anyhow, the need is not for a lower level of rates, but for more equitable rates. The issue, then, is simply this—have the evils of which we complain been removed by government ownership where it has been tried, and are the railways being operated in the interest of the people?

We contend that where it has been given a fair trial it is doing for other countries just what we would have it do for us. Let us direct our attention for a moment to the state-owned railways of Prussia. The experience of Prussia extends over a period of seventy years. Do you suppose that she would to-day exchange those state railways for the private railways of the United States? Judging from what our best authorities have to say, she would not exchange them for any system in the world. But what is it that characterizes the Prussian system as the most satisfactory of all nations? It is the fact that under state ownership the evils of private ownership have been removed, and the government is giving to the people the best service at the lowest possible cost.

Professor Frank Parsons of Harvard University on page 404 of "The Railways, The Trusts, and The People" makes the following statement: "Everywhere in Europe I was told that the German roads are the best managed in the old world. They are also the closest to the people; and in fact the most democratic in actual management, owing to the constant consultation of the railway man-

agers with popular bodies representing the various interests of the communities. They have but one aim—the public good.” President Hadley of Yale University, on page 248 of his book, “Railroad Transportation,” says, “It must be confessed that important results have been achieved. They have done away with the most dangerous forms of special contract and secret discrimination. The worst abuses under which we suffer in America have been avoided.”

Let us now consider the state railways of Italy. Italy has witnessed greater difficulties in establishing her railway system than any other nation in the world. She has tried private ownership and private operation, state ownership and private operation, and has abandoned them both. To-day, Italy owns and operates her entire railway system, and, having tried every other form of railway administration, she says that government ownership is the only solution to her railway problem. Of what did her railway problem consist? Political corruption, rate discrimination, poor service, and worn-out roads. Under government ownership these evils are being removed, and the change has resulted in greater economy, better service, higher wages, and better conditions of employment. I base my statements in regard to the Italian experience upon the authority of Mr. Luzzetti, ex-minister of finance in Italy.

Again, we have one of the strongest illustrations of state railways in New Zealand. She has had government ownership for forty years. It is the policy of New Zealand to operate her railways in the interests of the people,



entirely subordinating questions of financial gain except in the way of collateral benefits through the development of industry. I base my statement in regard to the railway policy of New Zealand upon the authority of Richard J. Sedden, Prime Minister, and Mr. Cadman, ex-Minister of Railways. Prime Minister Sedden makes the following statement: "It is my idea that the railways are the servants of the people, and that they should be run entirely in their interest. We want to bring every farmer's produce to the markets at the lowest possible cost. Nearly all of the roads are making money, but there is no incentive to give anything else but the best service at the lowest possible cost."

While we are considering this phase of our subject, let us not forget that Switzerland is just passing the first decade in her experience with state-owned railways. Of course, we realize that ten years is not a sufficient length of time for any nation to remove all of the evils of private ownership, and to justify itself in the railway business. Nevertheless, the results in Switzerland are very satisfactory. The fullest and most unbiased account of the railway experience of the Swiss people is that given by Professor A. N. Holcombe, of Harvard University, in an article written for the *Quarterly Journal of Economics* for February, 1912, which closes with these significant words—"Without venturing, however, to predict, we may observe that the Swiss Federal Railways have already reduced rates, improved the service, raised wages, and made a profit."

Gentlemen, these are but a few examples of the suc-

cess of state railways in foreign countries. Others could be cited. We realize, however, that in some countries they are not so successful as in others, but this much we know to be true—that no nation, having once tried government ownership, has ever returned to the private system.

Now, what has been the result of government ownership in the United States? What about our postal system? Is it a credit to the American people? Ladies and gentlemen, it is the greatest business concern in the world. Of course our opponents may inform you of the fact that at certain times there have been deficits in our Post Office Department. This, we fully realize. There have been small deficits, but that is no argument against the postal system as a successful government enterprise. It is serving the people, and we are not so much concerned about the deficit as long as we know that it is more than accounted for by the indirect results through giving to the people the service for which it was created. But why have there been deficits? One of the main reasons is because of the enormous sum of money paid to the railroads for the transportation of the mail. The United States pays annually to the railroads over fifty million dollars for this service. Gentlemen, if this were reduced to a reasonable sum, instead of having a deficit we would have a surplus.

However, the primary reason for deficits in the past is because of the rapid extension of our postal service to meet the needs of a growing and prosperous nation. It is the purpose of the United States, through the exten-

sion of her free delivery service, to place the mail at the fireside of every American home, and thus encourage education. It is our purpose to establish postal savings banks, encouraging the saving and deposit of money. Then, can we expect to fill the coffers of our treasury by a direct financial gain from such a service? No. But through the encouragement of education and thrift of industry the gain will fill our treasury to overflowing. However, these indirect results will not be found upon the balance sheet of our Post Office Department, but they will balance as an asset in the commercial life of our nation. The greatest profit that a government can make is in securing better citizenship, and we would apply this same principle to the government-owned railroads. We could not expect to earn large dividends any more than a farmer can expect to make money by charging himself exorbitant prices for the use of his own team. If the government realizes any profit over and above expenses, it has simply earned dividends from itself. The people have paid the freight and passenger rates, and they own the surplus. Any real profit, therefore, must be in the increased prosperity of the people.

And above all else, what enterprise of the United States is attracting the most attention to-day? It is the construction of the Panama Canal, the greatest engineering achievement in the history of the world. Two other nations considered the job, and gave it up as a hopeless task. The United States made thorough investigation, and began its construction. Private initiative was given the fullest possible scope. Two of the most noted private

engineers turned it down. Colonel Goethals entered upon the work in the service of the United States and to say that the work is a success is not necessary. It is a recognized fact. Already our work in Panama is changing the face of the world, and every whit of this work is being done under the direct supervision of the United States Government.

Lastly, let us consider the experience of the United States in the ownership and operation of the Panama Railway. Our government owns and operates a railway system in Panama, and, according to the statement of Mr. Albert Edwards, it is a model of efficiency and economy in every department. Mr. Edwards says further, "There is no system at home so thoroughly equipped with safety appliances. The accident rate both for employees and passengers sets a standard which none of our privately owned roads have ever approached. It carries more traffic per mile than any railroad in the United States." These facts, gentlemen, in regard to our own experience with government ownership of railways are worthy of our consideration, and while it is not the purpose to make money on the Panama Railroad, the annual report to the stockholders for the year ending June 30, 1910, shows a net earning in round numbers of two million dollars.

Thus, we see that, among the government enterprises of the United States, our postal system is a marvel to the world; that, after other nations gave up the job of constructing the Panama Canal, "Uncle Sam" took his spade and dug the "Big Ditch"; that we own and operate

a railway system in Panama that is a model of efficiency and economy and a financial success.

The next great achievement of the American people is to throttle the greed and graft of these selfish railway kings, and, by our silver spade of thrift and industry, to open up these channels of commerce to the service of the people by the purchase of private railways.

FIRST AFFIRMATIVE REBUTTAL, SAM MARSH, OTTAWA  
UNIVERSITY, '14

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In opening the rebuttal argument for the affirmative this evening we consider it necessary first, to outline the points of argument which we have established in favor of government ownership of railways in order that you may clearly see that our opponents have absolutely failed to meet our argument squarely. We have shown you that the tremendous power, now in the hands of private railway managers is too great to be left in their hands even if it were being wisely used, but that such power is already suffering the most dangerous abuse. We have pointed out to you great evils that have crept into our private railway system which are greatly endangering the public welfare, chief of which are political corruption and unjust rate discrimination. We have shown you that rebates are actually granted to large shippers to such an extent that thousands of small shippers are experiencing the ruin of their business.

Now, our opponents have attempted to show you that these evils can be remedied in some other way and are.

not sufficient to warrant a change of system, but, gentlemen, we have shown you that every evil which we have discussed here this evening is an evil which is inherent in the system itself; that so long as we have private operation for private gain these evils are bound to exist.

We have shown you that there are only two possible remedies for these evils, the Interstate Commerce Commission and government ownership. We have shown you that the Interstate Commerce Commission has been in existence for a quarter of a century and has failed to remedy the existing evils satisfactorily, thus, leaving us in the face of government ownership. And, gentlemen, having established the need for government ownership of railways we have gone further and shown that it is both practicable and efficient. We have shown that the railways can be purchased and that a great saving would result both from the purchase and the operation. This argument we have based upon the experience of foreign countries and because it is based upon the experience of foreign countries our opponents have sought to invalidate it. Gentlemen, in regard to this point we would have you keep in mind the fact that in no case mentioned by us this evening have we compared the railways of foreign countries with those of the United States. We have made our comparisons with relation to foreign countries between the railway systems before and after government ownership was in effect and such argument cannot be questioned by any fair minded person.

We have also shown you that the United States is successful in government enterprises; that our postal system

is a marvel to the world; that the Panama Canal is the most successful government undertaking of the present day; and that we own and operate a railway system in Panama that is a model of efficiency and economy and a financial success.

Now, gentlemen, in dealing with this subject this evening our opponents have discussed at great length the inexpediency of government ownership, but their whole argument on this point can be disqualified by their reckless exaggeration of figures. The statement was made by the negative that the railways of the United States are capitalized at \$21,000,000,000. This statement cannot be made upon good railway authority. On the other hand we have shown you that our railways are capitalized at \$14,000,000,000 and we base our statement upon the authority of the Interstate Commerce Commission.

SECOND AFFIRMATIVE REBUTTAL, LELAND H. JENKS,  
OTTAWA UNIVERSITY, '13

Honorable Judges, Ladies and Gentlemen: I have been greatly interested during the course of the argument of our friends of the negative this evening in many of the considerations which they have brought to bear upon the discussion of this question. Perhaps none, however, has appealed to my fancy more than the tremendous typewritten list of names which the last speaker has just flung out over the heads of the audience, and cited as authority in opposition to government ownership of railroads. It is an interesting list of names. I do not doubt but that they are all statesmen or congressmen as my

opponent has declared; I will not question for a moment that they have all made the statement of position which he has said they hold, although he has not shown the letters to support the list. But, Honorable Judges, this is no argument against our proposition that the government should own the railroads—simply the displaying of a list of names of prominent men who are stated to be opposed to it. Have they letters from 500 public men who do not favor government ownership? We might have secured statements from 500 who do, but that would be no argument in support of our contention. Indeed there are men of prominence who do favor the purchase of the railroads by the government. One I might mention whom my opponents have named as being opposed—William Jennings Bryan. I hold in my hand a statement which Mr. Bryan made several years ago, at a public gathering in Madison Square Garden—a statement which if he has never repeated, he has at least never recanted, and which, despite my opponents' statement to the contrary, may be taken as his attitude on the subject.

But now, Honorable Judges, the debate here to-night is not a matter of the relative strength of authorities. It is simply an issue as I stated in my opening speech between the respective merits of government ownership and private ownership. In order to establish our case here to-night, what the affirmative had to do was to show that there are evils in the present system, evils grave enough to warrant a change, that government ownership would cure them, and cure them better than anything else. This we have done.



We have shown you three grave defects resulting from the present system, either one of them grave enough to warrant a change of system. There are the dangers from political corruption, the menace to life and limb of passengers, and the unfair business conditions created by enormous discriminations and favoritism in rates. Our opponents have admitted that there are evils and defects in the present system, and they have failed utterly to show that these evils which we have pointed out to you do not exist. Two of the evils, indeed, they have made absolutely no attempt to deny. Such glaring and self-evident indictments of the present system of railway ownership are its corrupting influences and its terrible death-record, that our opponents have recognized the futility of attempting any defense or denial of our charges against the railways in these respects. They have attempted to challenge our argument with respect to discriminations, by the assertion that laws have been passed and are now on the statute-books which absolutely have done away with discrimination. Laws have been passed and powers have been conferred upon the Interstate Commerce Commission with such a desirable end in view, but as I fully showed by the illustrations presented in my opening argument, discriminations are not now prevented, and cannot be as long as the competitive system upon which they rest continues to exist. There must be discrimination or bankruptcy for the railroad owner as long as he must meet competition at large centers of trade. But the favoritism which this necessarily entails against the small markets, the small shippers, and cheap goods is unjust

and uneconomical and should be replaced by a system of equity and fairness to all, by the consolidation of the railroad lines under the ownership of the general government.

Our opponents, then, have failed to break down our argument that the present system is gravely defective in these three particulars. It remains to make defense against criticism of government ownership. All that my opponents have said to-night may be summed up in two general charges which they have brought against our proposed system. They have charged that it will destroy individual initiative; and they have contended that it will be a political menace to the country.

They say that government ownership will break down the magnificent plan of individual initiative on which our commercial system and national prosperity is founded. Where, may I ask, is the individual initiative which government ownership would break down? It is the initiative of a Harriman to build up a private railway monopoly from the Atlantic to the Pacific. It is the initiative of a George Gould to wreck his own railways on the stock exchange in Wall Street. It is the power of a J. Pierpont Morgan to force every would-be railroad builder in the country to do business on his terms, or go bankrupt without the backing of his great banking connections. It is the individual initiative that these men, and these men alone, possess that government ownership would do away with.

But would not government ownership reduce the efficiency of the workmen on the railroads? Here again, I

would ask the gentlemen, where is the efficiency that would be destroyed? It has not been shown, and it cannot be successfully demonstrated that there is any magic in the livery of corporation hirelings that makes it any more probable that they will do more efficient work than as employees of the government. Any of you who have worked in the offices of the great railway companies of the country, will bear me out, when I say that to be known to be working overtime or with an extra display of zeal for the interests of your company, is to be branded by your fellow-workmen as a "company man" and shunned accordingly. And it need hardly be said that the occasion for such social ostracism arises but seldom in the employ of the railways of the land.

But our opponents cry, this will build up a great political machine, and political considerations will operate to undermine the efficiency of the railroads. The government, they say, cannot handle any business enterprise without the interplay of political machinations and graft and favoritism. Now let us see just a moment. Our opponents have also been telling us how beautifully the Interstate Commerce Commission has been working, how efficiently it has been solving railway problems, and have urged that it be given larger powers to deal with the situation. What? Is not this a branch of the government? Yet in all its history there has yet to be a breath raised against the honesty and integrity of that body—not a whisper has intimated that it was not absolutely free from any political bias in its dealings. Why not organize our government bureau to manage the rail-

roads of the country in some such way as the Interstate Commerce Commission now works? Give it quite a degree of autonomy. If thought best, take some of the Commissioners and place them in the board of directors of our national railway system. And what reason would there be to suppose that the administration of our government railway system would not be as free from corruption or political influences as is the Interstate Commerce Commission at the present time? There is absolutely nothing which would lead us to suppose that political difficulties under government ownership would involve the country in any greater troubles than are occasioned already by private ownership.

Honorable Judges, I want to call your attention to the fact that our opponents in this debate have confined their attention largely to financial considerations. In arguing about the relative success of government and private ownership they have based their contentions wholly on matters of financial profit and financial loss. My colleague has shown you ably and fully that government ownership would not be a financial calamity to the country. But we rest our case not so much on the fact that the government would make money, as on the fact that it would render to the public the service which it demands and which it should have, but service which it is not receiving and cannot expect to receive at the hands of the private railway owners. The real issue in this debate is simply this old question which shall count for most, the private gain of a few individuals or the maximum amount of service rendered to the people as a whole. The pri-

vate railway system is run, and must forever be run, on the principle of getting as much profit as possible for its owners. The guiding principle of government ownership is the rule of service. As long as the railways are in private hands, there will be given the minimum of service compatible with a maximum of profit; favoritism will abound, and competition will compel the giving of discriminations. And it is on this issue that we rest our case to-night. It is the issue of private profit vs. public service, and government ownership must inevitably result from the application of the latter principle.

### *KANSAS WESLEYAN vs. OTTAWA UNIVERSITY*

FIRST NEGATIVE, C. L. HANEY, KANSAS WESLEYAN

(Summary from the Wesleyan Advance)

Mr. Haney, the first speaker on the negative, in his opening speech admitted that there were some glaring faults in the present day system, but contended that it was not a change to a different system that was needed but a perfecting of the present system. He showed, first, that government ownership of railroads was inexpedient, because (1) of the immense amount of capital that the government would be required to invest, for this would burden the nation with indebtedness and endanger its credit; and (2) because government ownership of the railroads would open up a large field for political corruption and abuse. He argued further, that it was wrong in principle, because (1) it destroyed individual opportunity and initiative and was therefore

undemocratic and un-American, and (2) because it was a movement toward centralization of power in the hands of the federal government which, when carried to its logical end, meant the enthronement of socialism.

SECOND NEGATIVE, J. B. HECKERT, KANSAS WESLEYAN

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: The question before us for consideration is government ownership of railroads. In this as in all other economic problems the question arises—why make a change? For what reason should legislation for government ownership be enacted? What is the principle involved? What end is to be attained? Wherein will government ownership improve the service? How will the cost of transportation be lessened or safety be increased? How will such action be a solution of any existing ills? Now, unless it can be proved beyond question that legislation for government ownership of railroads involves a principle through which the people of this country are to be benefited and the transportation facilities improved, then we can by no means afford to endanger the future of this country by such a revolutionary experiment.

My colleague has proved conclusively that government ownership would be inexpedient in the United States because the principle is wrong, because it would bring financial distress, and because it would increase political graft and corruption. I shall prove that such a system would be a failure in practice, and that it is unnecessary because it would not remedy the existing ills.

In the first place government ownership of railroads would open up new fields of congressional dickering and corruption. Let us glance into history and the customs of our country a little. The railroads have in a large measure followed original channels of trade along which towns and settlements had sprung up, thus following routes where railroads could be sustained. This is illustrated by the Santa Fe railroad which followed the old "Santa Fe trail." Take a glance at the map of the country, however, and you will find vast areas where the country is not yet settled sufficiently to support railroads. Should this legislation for government ownership be enacted, every community, regardless of its contributory support, would feel entitled with every other community to railroad facilities and would demand them. It is self-evident what the effect would be. Every man in Congress would be forced to meet these demands. Take the tariff as an illustration. Louisiana demands a sugar tariff; Alabama, a lumber tariff; Pennsylvania, an iron tariff; Massachusetts, a manufacturer's tariff; Kansas, a wheat tariff; every part of the country demands its special tariff, and the result is, we have a universal tariff. The public building graft illustrates another kind of congressional dickering. Not long since a Kansas congressman made his canvass in a large measure on the strength of what he had secured for his district in appropriations for public buildings. Should legislation for government ownership of railroads be enacted the natural result would be a demand for roads where they are not needed, for union depots wherever two or more lines converge, and

for expenditures along every line, until only men who promised most could be elected to Congress.

In the second place government ownership would not be practicable because of the increase it would cause in the cost of operation. The railroads have nearly two million employees. Now, eight hours constitute a day in government labor, while in railroad work a day averages much more. Under government ownership this difference in time would necessitate a vast increase in the number of employees and a readjustment of the service. To comply with our present labor laws this difference in time alone would necessitate an additional expense of more than two hundred million dollars a year, which is sixty-two million dollars more than the total dividends of all the roads. An increase of rates could be the only result. But the demand is not for higher, but for lower rates.

Furthermore, government ownership of railroads would not be practicable because people would demand a uniform rate, both passenger and freight. To establish a uniform rate over so large a territory as the United States would arbitrarily limit commerce to sections and restrict production. Under a uniform rate our raw material of the South and West could not be moved to the manufacturing centers of the North and East; neither could the manufactured products of the North and East be moved to the South and West. These great masses of products which employ whole systems of railroads with special equipment must be given special rates in order to encourage greater production and to develop the differ-



ent sections of the country. Moreover, the difference in the natural conditions and in the degree of development of various sections of our country necessitate a difference in rates. The Kansas railroads can make money on a two cent passenger rate; in Missouri they must charge two and one half cents; and, in parts of Colorado, five cents. Freight rates also vary. To make these rates uniform, as the people would demand under government ownership, would give us a repetition of the history of the Post Office department. This department, using a uniform rate, has delivered letters in undeveloped sections for two cents where the actual cost has been a dollar or more a letter. The uniform postage rate has caused deficiency appropriations which have at times been as high as ten per cent. of the total cost of maintaining the service. Such a deficiency appropriation applied to the railroads would amount to the enormous sum of two hundred million dollars a year. This would bring a heavy, annual, financial burden upon the country or occasion a general advance in rates, which as we have already pointed out, is highly undesirable.

Again, government ownership of railroads would not be practicable because of the government's slow and expensive policy of public improvement. Government delay and wastefulness in the matter of appropriations for improvements are notorious. In the three years 1909-10-11 Congress appropriated over one hundred million dollars for rivers and harbors, and this year, the enormous sum of nearly fifty million dollars. Senator Chamberlain of Oregon says, "This vast sum is being fully

half wasted on account of congressional dickering and lack of definite policy or concentrated effort to finish any particular undertaking." The government's practice has been one of continual delay and wastefulness. Pork barrel methods have only given an impetus to the opportunity for fraud. Records show that in the harbor improvements at Savannah, Georgia, alone, the government has been defrauded of some two million dollars. In the construction of public buildings about the country we find another instance of waste and fraud. If the government designs and begins the construction of a post office or federal building in a growing city, the city has invariably outgrown it by the time it is finished. Then another slow, long drawn-out process of extension is begun, barely managing to lag at a distance after the growth of the city. As a common example of this I wish to point to Kansas City in your own district, where the capacity of the Federal building has just been more than doubled and yet it scarcely meets the present demands. The same thing has happened in Los Angeles, California. We have a further illustration in Salina where the government has been two years in acquiring a site for an addition to the Post Office; it will no doubt require years for the completion of the project. Right here in Ottawa, a like appropriation of thirty thousand dollars has been made, but the building has not been completed. This same condition has prevailed in nearly every growing city in the country. Seligman, the noted economist, in speaking of this, points out that with our consummate incapacity the attempt to run a railway would be a failure,

and that, under present conditions, to turn over the greatest, the most complex, and the most fundamental industry of modern times to the government would inevitably lead to such a decrease in efficiency as to become well nigh intolerable.

The argument is frequently advanced that in other countries government owned railroads are a success, and would, therefore, be a success in the United States. But no just comparisons exist. Most of the countries having government owned railroads are small in area and have a dense population with fully developed resources. All of them differ from the United States in social and economic conditions.

Now, I have briefly given the chief reasons why government ownership of railroads would fail in practice, namely, that it would subject the service to political dickering and corruption, that it would increase the cost of operation, that it would create rate controversies and disturbances which would retard the production and progress of the country, and that the government's slow policy of improvement would destroy the enterprise and efficiency of the roads. Now, Honorable Judges, we contend further that government ownership is unnecessary because our present system of private ownership with government regulation is founded upon the right principles and is proving a success in practice.

Our present system of private ownership with government regulation is founded on the principle of freedom in action and in achievement. It is this freedom of action and achievement which has led our country to her

great progress and development. It is this freedom in enterprise that has led our people across the mountains and plains, and has brought forth our great industrial achievements until our industries and transportation facilities are the best in the world. Never before in history has a people been given such freedom of action, and never before has a people achieved such progress. For these reasons we contend that private ownership is right, and that upon it lies the foundation of our progress. We grant that there are faults in the machinery of government regulation and control as in all systems of legislation. None is perfect. It is for us to remedy these faults—not to depart to a revolutionary system which is wrong in principle. All of our leading statesmen are opposed to government ownership of railroads, including such men as Wilson, Roosevelt, Bryan, Taft, LaFollette, Underwood, Bristow, and Beveridge. Also our latest school of great economists are against the principle of government ownership. These men realize that the present principle of private ownership is right. If on the contrary government ownership is right, surely some of our leading statesmen and economists would be in favor of such a system.

In the second place we hold that in practice the present system is proving successful. Through legislation we have obtained the power of regulation and control. To-day forty states have mandatory powers over the railroads. Our Interstate Commerce Commission and commerce courts are now established with power to regulate rates, to investigate and to prevent unjust discrimina-

tions, and to establish standards of safety, comfort, and efficiency. In this they are achieving success. Passenger rates have been reduced on the whole about twenty or thirty per cent. In Kansas, Wisconsin, Ohio, and other states, they have been reduced from three to two cents a mile. In Virginia and Missouri they have been reduced to two and one half cents. In parts of Nevada they have been reduced from eleven cents to six cents. In fact, in almost every state passenger rates have been lessened. Freight rates have also been reduced. Within the last thirty years freight rates have, on the whole, been cut down about seventy-five per cent.

Furthermore, we have ample laws forbidding unjust discrimination and, according to the report of the Interstate Commerce Commission, there are few complaints concerning unjust discriminations between individuals and localities. That there are some discriminations, however, is not an argument against the principle of private ownership, nor is it proof that law cannot control the railroads effectively. Where is there a single law which is not violated? We have ample laws against robbery and murder, yet every day we record a dozen violations of these laws.

Again, the commission has established standards of safety and efficiency, and has forced the railroads to meet these requirements. For example, they have forced the railroads to furnish a complete record of all accidents, to provide for the establishment of systems of danger signals and safety appliances, and they have often required the railroads to furnish more cars and to render

better service. The Missouri Pacific on some of its Kansas lines was obliged to improve its roadbeds and to provide quicker transportation and better train service. The Pennsylvania lines were forced recently to change train schedules and to add special brake appliances on the fast trains. In numberless localities, other roads have been compelled to provide greater safety and better roads.

Further, railroad monopolies are being prohibited. The federal courts have the power to dissolve mergers and illegal combinations. Such dissolutions are illustrated by the Great Northern merger case and by the recent dissolution of the Union and Southern Pacific systems. Private ownership is proving a success, and legislation for its reasonable regulation and control is becoming more and more effective.

Now, Honorable Judges, I have proved that government ownership of railroads would be a failure in practice because it would decrease the efficiency of the railroads, because it would retard their progress, because it would increase the cost of operation, and because it would subject the service to political dickering and corruption. I have proved further that government ownership of railroads is unnecessary because the present system of private ownership with government regulation is founded upon the right principle and is proving successful in practice. We have not held that the present system is perfect, but we have shown that it is founded upon the principle of individual enterprise, and that our national prosperity and progress evidence that it is achieving success. We have also shown that we have

entered upon a great epoch in regulation and control, destined to protect public welfare and at the same time enhance the true value of private interest. Now, Honorable Judges, shall we throw aside what has been gained, shall we abandon a promising policy which has not yet been convicted of failure, and take up a revolutionary principle which will endanger our industrial progress? Rather let the government through legislation for regulation and control promote our industrial welfare, protect the public, and thus develop and make more efficient our great transportation facilities. Surely this is wiser than a scheme of government ownership.

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publications of the Bureau of Transportation.—C. O. H.



# **INDUSTRIAL INSURANCE**



## ACCIDENT INSURANCE.

### *I*

*Iowa Teachers' College vs.* { *Coe College*  
  *and*  
  *Morningside College.*

The Iowa Teachers' College of Cedar Falls, Iowa, won both of its debates and took first place in the new triangular league with Coe and Morningside colleges, both of Iowa, which was formed in 1912-13. The debates were held April 11, the Teachers' College meeting the Morningside affirmative and the Coe negative. Morningside was defeated by a two to one decision and Coe by a unanimous decision. The Teachers' College has made an excellent record in debating during the past few years.

The Accident Insurance question discussed was stated as follows:

*Resolved*, That the United States should enact legislation embodying the principles of the German Industrial Insurance law for the compensation of industrial accidents in this country.

The following speeches were contributed by Mr. John Barnes, the Coach of Debate at the Teachers' College.



# **ACCIDENT INSURANCE**

## ***IOWA TEACHERS' COLLEGE vs. COE COLLEGE***

**FIRST AFFIRMATIVE, ROY L. ABBOTT, IOWA TEACHERS'  
COLLEGE**

Ladies and Gentlemen: "It is an amazing fact that up to the present time our government has devoted much more time and money to the protection of the lives of cattle, sheep and hogs than it has to the lives and welfare of human beings." The life and health of its citizens have been held as small things compared to accumulation of wealth and creation of industry. Every one knows what enormous strides we have taken along industrial lines during the last fifty years, but few realize what a tremendous drain this has been on the physical powers of our nation. For with the growth of industry has come a great increase of accident and death. In 1908, our industries killed 30,000 men, and injured over 400,000 more. "We kill nearly three times and injure more than five times as many railroad employees as Great Britain; we kill two and one-half times and injure five times as many as Germany; and we kill more than three and injure nearly nine times as many as Austria." The showing made by our factories and mines is equally unfavorable. Hardly a day passes but that our daily news-



papers publish some railroad or mine disaster. Such a wholesale showing of accident and death is a disgrace to our social system. Yet things would not be quite so bad if we had some adequate system of compensation for our injured workmen. But we have no adequate system of compensation. True, some of our states have adopted compensation systems, but these are only statewide, and cannot possibly meet the needs of the whole people.

Practically all the states have employers' liability laws, under which an injured workman may attempt to recover damages by a suit at common law, but nearly every manufacturer in the United States is agreed that these laws are uncertain and inefficient in their working. Under these laws our courts are crowded with lawsuits between employer and employee, and statistics show that only 10 per cent. of these injured workmen receive compensation in the courts. Immense sums are wasted in trying these cases, and general dissatisfaction has resulted. Thus the United States is face to face with a great problem. The affirmative proposes as a solution for this problem that: Federal legislation, embodying the principles of the "German Industrial Accident Insurance Law" should be enacted in the United States for the compensation of injured workmen. I shall now show three things. First, what this German act is. Second, I shall give an explanation of the principles of the act. And, third, I shall show how this act has worked in Germany.

First, what is the German act? It is briefly, this: Every employer must be a member of an organization of

employers known as a mutual association. These mutual associations are organized along trade lines, that is, there is a mutual association for each industry. For example, all steel workers fall under one association and all textile workers under another. There are at present sixty-six of these mutual industrial associations and forty-eight agricultural associations. Each association elects its own officers and manages its own business. The purpose of these associations is for the collective insurance of the workmen; therefore, each employer must contribute a yearly assessment or premium to the common fund. This premium is equalized by a carefully prepared danger tariff which is used as a basis of assessment. That is, each employer must pay an assessment proportional to the danger or risk incurred by his employees. The employer meets these assessments by charging them to the total cost of production, thereby making society as a whole bear the slight expense. A sickness fund is also maintained which takes care of the injured during the first thirteen weeks following the accident. The act works automatically. All accidents are promptly compensated, but extreme care is taken to prevent them, and to facilitate this, each association must pass and enforce stringent preventive measures for the protection of its workmen. Employers failing to observe these due precautions may be fined or charged a higher rate of assessment.

Gentlemen, this is a brief view of the act in its actual operation. Observe that the working of the act is based upon five important principles, as follows: First, the

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protected. Since every employer must insure in the association of his trade, the solvency of these associations is assured.

Gentlemen, in the foregoing we have shown you the working of the German act and have given you a brief explanation of the principles involved. We have shown you the machinery of the act and we shall now show you how successfully this act has worked in Germany. There is no better proof of the success of the act than the words of the German authorities. Mr. Schwedtman wrote to twenty-one men who are at the heads of some of these mutual associations asking their opinion of the act and how well it was working in Germany. Some of the men were: Dr. Paul Kaufman, Head of the Imperial Insurance Department; Dr. Spieker, Chairman, League of German Employers; G. Kramer, Head of the Association for Chemical Industry; and E. Blume, Chairman, Board of Directors of N. Eastern Iron and Steel Workers. Every man replied to Mr. Schwedtman and every reply was emphatically favorable. Dr. Paul Kaufman, President of the Imperial Insurance Department, said: "The successful handling of the labor question through social insurance is one of the strongest factors in Germany's constantly growing industrial progress." Again, he says at the close of his letter: "The United States can build no better monument of her strength and idealistic sentiment than by a careful solution of the problem of social insurance."

Dr. Spieker, Chairman of League of German Employers, also says forcefully: "It is perfectly evident

to-day that we have secured higher efficiency in our industries due to increased workers' efficiency, all brought about by relieving our workers from worry and distress on account of sickness, injury and invalidity." Mr. Kramer, Chairman of Associations for Chemical Industry, also adds: "I have no doubt that the growth of our industries in the last two decades is due in no small measure to the work of our employers' associations." Gentlemen, whole volumes have been written in praise of the German act, but the good that it has worked in Germany is the best proof of its value. The German act has been in force for thirty years. Nearly twenty-five millions of people are insured under its provisions. Fifty-five millions of dollars were paid out in 1910 alone, for insurance benefits under the act, and 500,000 dollars were spent during the same year for the prevention of accidents. Such an expenditure of money upon the working class has not been without its good effects. Germany has made wonderful strides along industrial lines since this act has been in force, and she is rapidly forcing her way to the front in commerce and industry.

Gentlemen, it has been urged by opponents of the German system that compulsory national insurance would ruin the employer and weaken the employee, but the exact reverse has been the case. Germany is a greater nation now than ever before and her citizens are better socially and financially. Dr. Zahn says: "German insurance has positively prevented a large amount of pauperism." Mr. W. John, chairman board of directors for the brick industry, says pointedly: "The

papers publish some railroad or mine disaster. Such a wholesale showing of accident and death is a disgrace to our social system. Yet things would not be quite so bad if we had some adequate system of compensation for our injured workmen. But we have no adequate system of compensation. True, some of our states have adopted compensation systems, but these are only statewide, and cannot possibly meet the needs of the whole people.

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Gentlemen, this is a brief view of the act in its actual operation. Observe that the working of the act is based upon five important principles, as follows: First, the



States has adopted its fixed scale of compensation. This universality of its application proves its practicability in the United States.

The second principle, arbitration, has also been widely adopted. It is intended to eliminate to a large extent, court procedure and litigation which have occasioned much delay and needless expense. Since arbitration has been successfully applied to labor disputes in the United States for years, it naturally follows that it is practicable for accident cases. It has these two decided advantages over court proceedings: arbitration eliminates the delay and needless expenses of court procedure, and it does not estrange the employer and the employee as does court procedure. Therefore, we maintain that it is practicable for the United States.

The third principle, that of the employer bearing the larger part of the burden of compensation, is apt to be misunderstood. In Germany, as my colleague has stated, the employer bears about three-fourths of the burden of compensation. A majority or all of the burden might be borne either by the employer or the employee. Either plan is practical in the United States, but what we want is the system which gains its end and which at the same time causes the least disturbance in industrial conditions. Analysis of the situation at once shows that this burden is finally borne by the consumer. If we should place all or a majority of the burden upon the laborer, there would of necessity be an increase in wages to meet this new expense. Of course ultimately, the cost would fall upon the consumer, but in the mean-

time wages would not rise immediately as there was a demand for them. Hence more or less industrial disturbance would be occasioned. Therefore, we advocate placing a majority of the burden upon the employer. This does not change the ultimate result and it does eliminate the wage problem. Besides this, it reduces complications immensely, because the ratio of employees to employers is about one hundred to one. The reason we say a majority and not all of the burden shall be placed upon the employer is that coöperation between employee and employer is thus secured. The workman feels, as Germany has found, that he is a part of the system. This feeling in a large measure eliminates the spirit of ill feeling and antagonism between employer and employee. For these reasons we maintain that the principle of employer bearing a majority of the burden of compensation is practicable in the United States.

The fourth principle, compulsion, and the fifth principle, compulsory mutual insurance of employers associations, are closely related. It is extremely hard to separate them. The reason for separation is that many of those opposed to compulsory mutual insurance, will accept the principle of compulsion which simply requires that all accidents shall be compensated. Therefore, we shall deal with them separately.

Compulsion is sometimes objected to on the ground that it is contrary to our American spirit of independence. Gentlemen, such argument is false. It has always been our aim to legislate for the common good and

compel obedience when necessary. The idea is not new. We have compulsory education. We have boards of health with compulsory powers. We have fixed scale of wages for farm-laborers, ministers and teachers in Maine. We have compulsory regulation of railroad rates. We have compulsion in national bank legislation. We have compulsory installation of fire escapes and safety devices. We have compulsory factory supervision. This shows plainly that the idea of compulsion is not contrary to our American spirit of independence. We compel obedience to laws for the common good when necessary. We compel the father to clothe and educate his children. We compel society to help her poor. We can compel employers to provide for their men. To-day wear and tear of machinery is placed upon the industry. But accidents are also a part of the wear and tear in the course of production. These men are killed or injured at the rate of 500,000 every year or on an average over two a minute during working days. We have now come to realize this. Enforcing compensation laws is not contrary to the American spirit of independence. It is administering justice. Thus we see the fallacy of the argument that compulsion is contrary to the American spirit of independence.

But besides this, we must insist upon compulsion because we can have no uniform system without it. Unless every employer were compelled to compensate we should have some employers compensating their men and others doing absolutely nothing. This is unfair to workmen who are not compensated. One laborer de-

serves compensation as much as another. Any system not compensating all, works rank injustice. It is unfair to employers. The employer who compensates his men cannot compete with the employer who takes no thought of his men. There is only one remedy for this injustice and that is a uniform, national, compulsory system of compensation. In order to secure uniformity we must have national compulsion. This ridiculous non-uniformity of state legislation is seen in our divorce laws, our education laws, corporation laws, labor laws, liquor laws, and our police laws.

To-day we have compulsory insurance in Austria, Finland, Germany, Holland, Hungary, Italy, Luxemburg and Norway for all workers; and in Denmark and France for part of the workers. Out of the sixteen states having compensation laws, ten, while they made the laws elective in form, imposed heavy penalties upon employers and employees who elect to stand by their common law rights. Thus we have indirect compulsion in ten of sixteen states. Of the remaining six, four have compulsion direct, one compulsion for employers, leaving only one without compulsion of any kind. Hence, compulsory insurance is not only practicable but desirable. For these reasons we maintain that compulsion is practicable in the United States.

The last principle, compulsory mutual insurance of employers associations, is perhaps the vital issue of this debate. In opposition to this principle, the negative offer "free choice." We of the affirmative maintain that compulsory mutual insurance is practicable because: (1)

conditions in the two countries are similar; (2) mutual insurance is superior to old line insurance; and (3) mutual insurance need not fail in periods of depression.

When we say conditions are similar we must consider only such conditions as affect the practicability of compulsory mutual insurance. Germany is largely a manufacturing nation as is the United States. Germany has many so-called "trade lines" exactly like the United States. The population of Germany in 1905 was about sixty million, that of the United States eighty-five million. Germany is composed of states in which even the language differs. The United States has the advantage in being composed of states in which the language does not differ. The negative may point out differences between the two countries, but it would be far better to be specific and recount the differences which affect the working of compulsory mutual insurance. It is true that Germany is accustomed to governmental control but it is equally true that the United States has long known the idea of compulsion as I have shown in regard to education, national banks, factory inspection, safety devices and fire escapes, and railroad rate regulation. There is not sufficient ground for saying that compulsory mutual insurance is not practicable in the United States. If we were to adopt details of the German act instead of principles, it would be far different, but these will of course be varied to suit American conditions. Therefore, as far as industrial conditions are concerned we maintain that compulsory mutual insurance is practicable in the United States.

Mutual insurance is superior to old line insurance. We have three insurance organizations, government insurance, "old line" insurance, and mutual insurance of employers' associations. Government insurance is too radical for adoption in the United States at the present time. Hence, we are limited to a choice between mutual insurance and "old line" insurance. Comparing the two systems, there is not a doubt that mutual insurance of employers' associations is far superior to old line insurance. First of all it provides for federal supervision. Speaking of state supervision, Zartman says, "An insurance company is a unit. It can not be divided into forty-six pieces." For thirty years federal supervision of "old line" insurance has been agitated and every attempt to secure such supervision has failed. It is obvious that mutual insurance is superior to old line insurance in this respect.

Again, management for profit and all unnecessary officers, agents and advertising are eliminated. This means an enormous saving in expense of management. It is clearly impossible for the "old line" company to carry on business as cheap as the mutual under the same conditions because of these facts. Mutual insurance is in the hands of employers who are interested and who know the hazard of the industry while the "old line" company is in the hands of disinterested parties. Hence, there is no incentive for the prevention of accidents in the "old line." There is also practically no way of enforcing any prevention ordinances.

Lastly, gentlemen, mutual insurance provides for uni-

versal compensation which is not true in the "old line" company. In case of a factory explosion or a mine disaster such as the Cherry Mine disaster the "old line" company is not and cannot be made responsible. We do not want a system which will leave hundreds of families destitute in an unexpected disaster. This is exactly what "old line" insurance does while mutual insurance compensates every case, placing the burden equally over the whole industry. Thus we see that analysis of the systems clearly justifies the choice of mutual insurance as the practical system for the United States.

Gentlemen, I have shown that the five fundamental principles of the German act are practicable for the United States. The first two, "Arbitration" and "Fixed Scale of Compensation," are universally adopted. The third principle, "Employer bearing majority of burden of Compensation," is practicable because it secures coöperation of employer and employee, and because it necessitates the least change in industrial conditions. Compulsion is practicable because it is not contrary to our American spirit of independence, being by no means a new idea; because it makes a uniform national system possible, and because it is adopted in over half of Europe and indirectly is in force in Wisconsin. Compulsory mutual insurance is practicable because conditions are similar in the United States and Germany, because mutual insurance is superior to "old line" insurance and because mutual insurance need not fail in periods of depression.

Therefore, we of the affirmative urge the adoption of

the principles of the German act for the compensation of industrial accidents in the United States.

THIRD AFFIRMATIVE, CARL ERICKSON, IOWA TEACHERS'  
COLLEGE

Ladies and Gentlemen: In this discussion to-night, we are not trying to answer the question, "What system of accident insurance is most likely to be adopted in the United States?" for we know that certain prejudices are alleged to exist against certain forms of insurance, but we are seeking an answer to this question, "What system of accident insurance is best for the people of the United States?"

To indemnify workmen for accidents is one of our greatest economic problems, but the difficulty of its solution will not excuse dependence on wrong principles. The correct solution must be a system that secures justice to the workingman, that secures the coöperation of the employer, and results in the greatest welfare to society.

We have shown thus far that the present accident insurance laws of the United States are inadequate. We have shown that Germany has developed a successful system of accident insurance which is based on the five principles stated by the other affirmative speakers. We have shown that these principles embodied in an accident insurance law are practicable in the United States and we shall further show that these principles are desirable. The three principles, that of fixed scale of compensation, that of arbitration, that of the employers bearing the



greater part of the burden, have already proved their desirability by their universal adoption and approval in nearly all the European countries and in all of the states that have enacted accident insurance laws. It remains, therefore, to show the desirability of the principle of compulsion and the principle of insurance in mutual organizations.

In considering any accident insurance law, three factors are involved, the employee, the employer, and society. Although society feels indirectly the result of accidents to workingmen, the direct sufferers of these great misfortunes are the workingmen themselves. Therefore, workingmen want, and justice demands, the prevention of accidents as far as possible, adequate compensation, and its absolute security of payment when accidents occur. If employers are to meet the wants of the workingman and the demands of justice, a system of accident insurance must be adopted that will afford them opportunity for so doing. Therefore, to obtain a plan of insurance that secures justice to the workingman, with the coöperation of employers and with the greatest welfare to society, we maintain, first, that the principle of compulsory insurance is desirable.

Prof. Nearing of the University of Pennsylvania has compiled figures showing that one-half of the adult male wage-workers of the United States receive less than \$500.00 a year and women receive considerably less. Thus the average workingman must suffer serious privation with the loss of a few weeks wages and his permanent incapacity would mean a life of beggary. This is

true of the worker, even when no one but himself is dependent on his earnings and the conditions are far more disastrous when several dependents gain their support from the worker's income. Of 132 married men killed in Pittsburg, only six had insurance in substantial amount and only 25 out of 214 left savings or insurance to the amount of \$500 each. Another example taken from Allegheny County, Pennsylvania, shows that 387 out of 467 men who sustained fatal accidents left families and other dependents without support. These figures tell us that a serious work accident frequently deprives a necessitous family of its chief source or at least of a very important source of income. Other statistics show that the small employer plays a very important part in our industries. Fifty per cent. of the wage-workers in this country are employed in small places where an accident verdict of from \$5,000 to \$10,000 would mean bankruptcy to the employer and as a consequence the loss of a part or all of the indemnity due the worker. The inevitable result, in the absence of compulsory accident indemnity, is poverty and the long train of social evils that spring from poverty. Justice to the workman, justice to society demands that accident insurance be made compulsory to secure aid to the injured workman, to reduce the human and economic loss and eradicate some of the evils from society. This principle of the German plan which was opposed so severely for a long while is now accepted almost everywhere. Eight countries of Europe have adopted it. At a Congress for Social Insurance held in Rome in 1908, and at an-

other held at The Hague in 1910, experts from all the European nations including England recognized officially "compulsory insurance" as the best and most efficient means of reducing the human and economic loss from work accidents. And men like Luzatti of Italy, who for years had been the most energetic champion of optional insurance, acknowledged themselves unreservedly converted to this obligatory principle. In our own country five of the sixteen states have embodied this principle of compulsory insurance in their new accident insurance laws. Even our progressive employers who are anxious to see that justice is given to the laborer, attest its desirability. An inquiry among 25,000 American employers brought replies from half that number and out of these replies ninety-eight per cent. were in favor of compensating workers injured in employment. Thus it is now generally recognized that only compulsory insurance will safeguard employers from excess liability and at the same time be a security and protection to wage-earners. Therefore, the principle of compulsion is desirable in the United States.

Again, to help secure justice to the workingman, with the coöperation of employers, which shall result in the greatest welfare to society, we maintain that the principle of insurance in mutual organizations is desirable. Though the principle of compulsion makes all employers liable for accident indemnity, insurance in mutual associations eliminates individual liability; it relieves the individual employer of the constant worry about his very existence and instead it places the burden on the employ-

ers collectively or upon the industry. Modern economists now agree that it is only just that the cost of industrial accidents be placed upon the industry and enter into the price of the products, but it is only through these mutual associations of employers that the cost of accident indemnity can be equitably distributed over the whole industry and thus place a uniform charge on the products. An equitable distribution of such a cost would be impossible under the individual liability plan, for in case of a great explosion, a building collapse or some disastrous calamity that would entail great loss from accidents, only a part of the industry is affected. And a few individual employers are compelled to bear the whole burden alone, although the greater number of these misfortunes are due to the hazards of the industry.

Because of this unjust practice of placing such heavy burdens on the individual employer, the payment of accident indemnity is very uncertain. The business failures, due to this, for the past ten years in the United States number 124,000, with total liabilities of over \$15,090,000,000. And the greatest sufferers in these tremendous losses are the thousands of injured workmen and their families who are thrust upon the community as objects of charity, for society must ultimately support them in charitable institutions. This has also been the experience of England where insolvency is by no means rare and where the kind of insurance is optional. But under the mutual insurance plan which is in use in Germany, the ultimate payment of all accident liabilities is absolutely certain because all the employers of an in-

dustry jointly meet the liabilities resulting from accidents.

And not only is this principle of insurance desirable because of its protection to both employer and employee, but because such a system is the most economical. This can best be illustrated by a comparison of the English and German plans. In England most of the employers are obliged to insure in some kind of company, with a resultant loss and waste hardly less than that in the United States with its antiquated employer's liability plan. Consequently with individual liability and stock company insurance, the expenses of administration, the advertising agents' commissions, and underwriters' profits absorb nearly fifty per cent. of the liability premiums or add one hundred per cent. to the cost of accident indemnity. In Germany, with compulsory, mutual insurance, similar expenses absorb but fourteen per cent. of the premiums or add only seventeen per cent. to the cost of indemnity. And it is the beneficiaries who must suffer on account of this vast difference. In England only fifty cents on the dollar spent for accident indemnity goes to the beneficiaries. In Germany they receive eighty-seven cents on the dollar thus spent to indemnify accidents. In other words the cost in England is four times that of Germany. Thus we see that only such a system can be most economical which provides for an insurance that has no competition, that needs no large reserve funds, that is not organized for profit and has practically none of the administrative expenses of stock companies.

Another advantage of mutual associations is their ability to prevent accidents. Social insurance of any kind is a means to an end and the ultimate object of accident insurance is accident prevention. Under the individual liability plan, the employer is compelled to pay a flat rate to some private insurance company no matter how careful he may be, and these insurance companies, moreover, are deterred by the fear of losing patronage from exerting adequate pressure on their clients. But the mutual associations which pay assessments in proportion to the number of accidents and in proportion to the care in accident prevention, find this an incentive to reduce their assessments by reducing the number of accidents. Composed as they are of similar establishments, they are in a position to study, to devise and enforce effective measures, which, together with their combined experience, leads to a system of thorough inspection and investigation, which in turn leads to modern methods of sanitation, approved safeguards on dangerous machinery and a general improvement in the efficiency of workmen.

In conclusion, the desirability of the mutual system of insurance has been proved not only in fact but by the testimony of authorities. Not only has it been recognized as superior by the most eminent of German authorities but it has received the recommendation of American, French, and English students as well. France, after twelve years of experience with a liability system of the English type, adopted, in 1910, a law based on the German model. Even the British people are dis-

satisfied with the working of their compensation law. Schwedtman says in regard to our own country, "The mutual principle has proved very efficient and desirable in fire insurance and life insurance, and we cannot see that there is an element in compensation insurance which would make these advantages improbable." To reject a plan of compulsory mutual insurance is, therefore, deliberately to adopt a system that has proved inferior.

Therefore, since the principle of compulsion and the principle of insurance in mutual associations fulfill the wants of the workingman; since they meet the demands of justice; since they are just to the employer and grant him ample protection; and since they reduce the human and economic loss of society, we maintain that these principles are desirable and should be embodied in an accident insurance law for the United States.

FIRST AFFIRMATIVE REBUTTAL, ROY L. ABBOTT, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: The gentlemen of the negative have spent most of their time in trying to prove two propositions. First, that the principle of compulsion is contrary to the spirit of the American people and consequently could not be enforced here. Secondly, they say that the German act has not made good in Germany. Both arguments are fallacies as will be clearly shown.

• Let us take now, for example, the principles of compulsion of which the negative has made so much. The negative has tried to show you that the German act

is objectionable when it says to the employer: you must insure in one of the mutual associations. They tell you that the American people would not stand for this, that they can be led but not driven. All this sounds very well, but, gentlemen, are these the facts of the case? Is the principle of compulsion contrary to the spirit of the American people? Emphatically, we say that it is not. Compulsion can be seen on every hand. Gentlemen, we have outlived this passive policy which the negative is urging! This is no longer an age of letting men do as they please. We have seen enough of its results. Adulteration of food, cutthroat competition, unfair discrimination, and financial distress are the obvious results of this policy. The pure food law under government control has stopped the adulteration of food and no law of the land has been better enforced. Yet the pure food laws are compulsion pure and simple. Take our tariff laws for another example. We must pay a duty before we can bring goods into this country. And this is compulsion! What about taxes? Nothing is so certain as payment of taxes, yet this is compulsion. What happened when the South said to the North, we will separate from the Union? Compulsion again in its strongest form. Gentlemen, compulsion is no new thing to us; we see it every day. Our government says: you may not form combinations in restraint of trade. You may not sell liquor without a license, you may not—and so on ad infinitum. Thus, gentlemen, the statement that compulsory insurance is contrary to the spirit of the American people, is reduced to an absurdity. Compulsion is



an active principle of our present day government. And it is a necessary principle. The pure food laws were made national and uniform, because the need was national and because state legislation would have produced a host of conflicting details which would have destroyed the efficiency of the law. And this is the exact reason why compulsory mutual insurance was made such an important principle of the German act. The German economists saw clearly that optional insurance meant insurance of only part of the workmen. They also saw clearly that optional insurance paved the way for difference of insurance rates, wrangling over assessments, and inefficient protection of workmen. Compulsory mutual insurance was the obvious remedy. And, gentlemen, there is nothing new nor objectionable in this principle of our common law. Social insurance will work in this country, but it must be by federal control and be nation wide, and not, as the negative would have you believe, a slipshod, optional thing, dependent upon the caprice of an employer, or the greed of a corporation.

The second proposition of the negative was that the act has not made good in Germany. They assume that the act has failed for two reasons, viz: that it has failed to prevent an increase of accidents, and that the certainty of compensation for injury has created a vast amount of simulation on the part of the workers. The first argument is valid only on the surface. Gentlemen, we grant that the number of accidents have apparently increased. But, Schwedtman, one of the best statistical authorities, expressly states that the number of fatal accidents have

shown a marked decrease. The negative shows you only the number of accidents without specifying their severity, and they also neglect to mention one important thing, viz, that since the act has been in force, statistical inquiry as to the number of accidents has been constantly growing, and that now there is a law imposing a penalty upon failure to report accidents. This is a fruitful source of apparent increase of accidents. And, yet with all this statistical aid we find an actual decrease of fatal accidents, and this during the period of greatest industrial progress of German history.

The third mooted point is that the certainty of compensation for accident has resulted in a great amount of simulation or pension hysteria. We grant this point. There are undoubtedly many cases of simulation under the act, but is the abuse of a minor detail of the act sufficient grounds for condemning the whole? Are not some of our most wholesome American institutions abused by fraud and simulation? Take our post-office department, it is a great institution and nicely handled, yet it has its defects. Shall we abolish the post-office department because of a minor weakness? How about our pension department? It is contaminated by fraud, yet no one will deny that it is a necessary institution.

Gentlemen, practically every opponent of the German act hinges his argument upon this minor detail of simulation. Dr. Friedensburg, the most radical writer against the German act, and perhaps the most quoted of German authorities, bases his whole argument against the act on this very detail of simulation. But notice,

gentlemen, he closes his argument by saying: "What I have said does not imply that the trades associations should be abolished. That would be the most serious mistake which could be made, for if anything has stood the test, it has been the employers' associations." Dr. Friedensburg thus acknowledges that the act is a wise one, it is the details to which he objects. Gentlemen, the affirmative is not urging the adoption of the details of the German act, but we do urge the adoption of the principles of the act as set forth and we believe that the negative has failed to show why these principles should not be adopted.

SECOND AFFIRMATIVE REBUTTAL, ARTHUR FORTSCH, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: According to the statement of the question, we are arguing for principles, not details. I wish to emphasize this fact because the negative insists upon dragging in details that have no part in this discussion.

There are five fundamental principles of the German act, namely, (1) Arbitration, (2) Fixed Scale of Compensation, (3) Employer Bearing Majority of Compensation, (4) Compulsion, (5) Compulsory mutual insurance. The negative accepts the first three, but objects to Compulsion and Compulsory Mutual Insurance.

The negative says that compulsion is contrary to our American spirit of independence. Gentlemen, I have already shown that we have compulsion, in regard to railroad rate regulation; compulsory education, pure food,

national banks and hundreds of other present day laws. Seager, Dawson, Downey and Schwedtman recognize this as a vital principle in the American government of to-day. Out of sixteen states in the United States, ten states have passed laws attempting to secure indirect compulsion. This shows plainly that compulsion is not contrary to our American theory of government.

But in spite of these laws less than one-third of the employers elect to take compensation under the compensation acts. This is because every employer is an optionist. As one employer in Minnesota said: "I have never had an accident in my mill, and I never will have an accident." Less than a week after he made this statement, he had a boiler explosion and seven employees were killed. As a result of his attitude not one death was compensated. Gentlemen, this is the optional insurance which the negative is favoring to-night as opposed to compulsory mutual insurance which compensates every case.

Let us see some further workings of this system which the negative upholds as a successful solution for compensating industrial accidents. These statistics were collected in 1911: In Erie County, New York, out of 115 killed, 93 received less than \$500. In New York State only 214 out of 1,222 or about eleven per cent. received anything like adequate compensation. According to the Minnesota Bureau of Labor reports eleven per cent. of fatal, thirty per cent. of permanent and fifty per cent. of temporary accidents receive adequate compensation. In Allegheny County, Pennsylvania, out of

259 families, 58 received nothing; 40 received funeral expenses; and 40 more received less than \$500. In Cook County, Illinois, out of 149 victims of fatal accidents, 70 received nothing, and 38 received less than \$700. In Wisconsin out of 306 cases investigated by a special commission, 72 received nothing, 49 received expense of doctor bills, and 44 received less than such expenses, and this is under the system which is declared a success by the negative.

Here is the testimony of Dr. Friedensburg, whom, by the way, the negative has quoted no less than 13 times directly and indirectly to-night. Speaking of trade associations he says, "I do not imply that trade associations should be abolished. That would be the most serious mistake that could be made, for if anything has stood the test it is the trade association." This is the testimony of Dr. Friedensburg in behalf of compulsory mutual insurance in trade associations which we are advocating to-night.

In conclusion, gentlemen, I have shown that compulsion is not contrary to our American spirit of independence being involved in nearly all of present day legislation. I have shown that optional insurance, which the negative offer as opposed to compulsory insurance in trade associations, is a failure in the United States and that Dr. Friedensburg is in favor of this same principle. For these reasons we of the affirmative maintain that the principles of the German act should be adopted for the compensation of industrial accidents in the United States.

THIRD AFFIRMATIVE REBUTTAL, CARL ERICKSON, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: That adequate compensation for industrial accidents will be provided by optional insurance as well as by compulsory insurance, is true only in so far as an elective or quasi-elective law exerts pressure upon the employer to accept its terms. In practice this reduces itself to the relative cost of insurance within and without the statute.

For instance, the Wisconsin law requires the affirmative election of the employer but saves him the defense of contributory negligence if he chooses to remain without the law. The result has been that so few employers chose to compensate workmen for accidents that only 33.7 per cent. of the accidents came under the compensation law. In California, where employers have the same choice as in Wisconsin, a choice between contributory negligence and compensation, only 358 out of 4,800 accidents came under the compensation law. As a consequence the great majority of work injuries remain unindemnified and the poor underpaid workman is left to take care of his crippled life alone.

To include some workmen and exclude others results in unequal justice to those exposed to similar hazards in the same industry. Indemnity for accidental injury can not be uniform and apply to all under like conditions when left to the arbitrary choice of the employer. To illustrate, two structural iron workers in Milwaukee fall from "reasonably safe" runways and are killed. The

dependents of the one receive \$3,000 because his employer had accepted the compensation act. The other's employer had chosen to remain under the common law and the family have no claim to compensation because his death was due to an "ordinary risk" of his employment. Such is the grave injustice of an elective or quasi-elective plan.

Furthermore, by the free choice plan producers in the same industry and in the same competitive territory are subjected to different accident costs so that the burden of indemnity cannot be distributed over the whole industry and be incorporated in the price of the product. Insofar, then, as the cost of compensation exceeds that of ordinary liability, the extra burden falls without recourse upon those employers who elect to compensate work injuries irrespective of negligence.

By upholding the individualistic theory that compulsory insurance hampers the liberty of the individual, the negative are advocating a theory that was discarded a quarter century ago. The individualistic theory of liberty was, that government should secure every individual from loss caused directly or indirectly by the action of other human beings and that it was wrong for law to restrict the rights of individuals. But restriction on personal liberty is the result of economic necessity. Our economic and industrial world to-day is full of conflicting forces that affect society on every hand. Even if there were no restricting law, every man's liberty is continually infringed upon, and met by coercion of private individuals. Because of this society must step in to

demand those regulations that are conducive to the greatest good and common welfare of all. It is therefore recognized by our modern economists, Seager, Ely, Eliot, and others, that the end of government is to promote liberty so far as governmental coercion prevents worse coercion by private individuals. The individual still retains the liberty to pursue wealth and happiness in a game open to all, but society must fix the rules of the game.

In conclusion, we have shown that instead of free choice insurance in optional form which the negative plead for, a system of compulsory mutual insurance is just, practicable, and desirable. Instead of the unequal justice of including some workmen and excluding others all of whom are exposed to similar hazards in the same industry, our plan secures equal justice to all workmen exposed to the hazards in any industry. Instead of the injustice of compelling the few employers to bear individually the losses of the great calamities we favor a plan of common justice, approved by economists, a method of fairly distributing the extraordinary costs of industry. Instead of pauperizing the widows and orphans of injured workmen and exposing them to the mercies of the indifferent employers we would give them an adequate income and place them in one economically independent place in society. Instead of making the payment of an accident indemnity a matter of conjecture, we would make it a matter of absolute certainty. Instead of allowing the injured workman but fifty per cent. of accident premiums we would give him eighty-



seven per cent. of his accident indemnity. Instead of compelling the workman to gain his due allowance by hard bargaining and expensive litigation, we provide a businesslike automatic compensation with expense of litigation at a minimum. Instead of offering no incentive to spare the life and limb of workmen by the prevention of accidents we would stop this waste of human life and promote the efficiency of the workmen by installing appliances of safety. Instead of hampering the self-dependence of the individual workman we would encourage his self-dependence. Instead of upholding the individualistic theory of personal liberty which was exploded 25 years ago, we uphold the theory of common liberty, conducive to the greatest good and greatest welfare, a theory advocated by all statesmen and economists of to-day. Therefore, because of the justice, the practicability, and desirability of a compulsory mutual system of insurance we maintain that the five principles of the German Accident Insurance Law should be embodied in a law for the United States.

*IOWA TEACHERS' COLLEGE vs. MORNING-SIDE COLLEGE*

FIRST NEGATIVE, W. H. VEATCH, IOWA TEACHERS' COLLEGE

Ladies and Gentlemen: Whenever a nation passes from a preëminently agricultural state to a stage where manufacturing is the chief industry, changes are bound to occur and new problems to arise. The question we

are discussing to-night concerns one of the problems which has arisen under these new conditions. That of compensation for industrial accidents. Some fifty years ago, Germany found herself facing a somewhat similar problem and to meet it enacted the law, the principles of which we are discussing to-night. As each nation of Europe reached this stage in her development, she too came face to face with a problem of this kind. Each nation met the problem in a more or less successful manner, but the striking feature of the different solutions offered is that each solution is essentially different, both in detail and in principle, from the others. This is because of the diversity of the problem to be met. Because of the fact that each difference, in industrial conditions, in the law of the land, in the people, in fact, each one of the innumerable differences between any two nations, changes the conditions under which the problem is to be met, changes the problem which is to be solved, and thus forces the working out of a different solution for each nation.

Now, gentlemen, if nations as closely allied as the European nations find that each country must work out its own solution for the workman's compensation problem, what basis has the affirmative for its claim that the principles of the German act, worked out by German experts to meet the German problem, will, if transplanted to a country like the United States, solve our problem in a satisfactory manner? Such a result is not to be expected. If a satisfactory workman's compensation law is to be worked out in this country, each part of the

plan must be worked out to meet American conditions, and the law as a whole must be governed by principles which are both applicable to the United States, and in accord with the American spirit.

Now before going farther into the consideration of this question, we wish you to see clearly the position which we of the negative are taking. We are not opposing legislation for the compensation of industrial accidents. We are just as heartily in favor of a workman's compensation law as are the gentlemen of the affirmative, but we believe that a compensation law worked out along wrong principles would be worse than no law at all, and upon this ground we base our chief objections to the affirmative plan.

We are not opposed to all of the principles of the German act. Our question says, "Resolved, that federal legislation should be enacted embodying the principles of the German Industrial Accident Insurance Law." Notice, gentlemen, the affirmative must prove not that some of the principles should be adopted but that the principles, as a whole, should be adopted. Consequently, if we of the negative can prove that even one principle of the German law is undesirable, or inapplicable, or that something else will tend better to solve this country's problem than will an application of that principle, or if we can show that these principles have failed to accomplish their object when placed in operation, we have proved our case.

There are three propositions upon which we of the negative intend to base our argument to-night. First,

these principles have not worked sufficiently well in Germany to warrant their adoption here, inasmuch as they have not accomplished the purposes for which they were adopted. Second, these principles are not applicable to the United States, because of the great differences, industrial, racial, and political, between Germany and the United States. Third, the principles of 'Compulsion' and of 'Mutual Insurance along trade lines' are undesirable for adoption in the United States and unnecessary.

Now, gentlemen, in taking up the first proposition, namely, that the success of the German act in Germany is not sufficient to warrant its adoption in the United States, we will show, first, that the German act has failed to bring about the results claimed for it, and, second, that many great evils have been introduced into Germany along with this act, the consequences of which are grave enough to warrant our objection to such an act.

When this law was introduced, four main arguments were used for its adoption. Its advocates claimed that this plan, if adopted, would remove pauperism, that it would bring about more friendly relations between the employer and the employee, that it would greatly decrease industrial accidents, and, lastly, that it would furnish for the workman, compensation without litigation. Upon a basis of these claims, the German people accepted the principles of this act. What has been the result? The act has failed in a large measure to accomplish these ends. Yet these claims are still advanced

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wherever friends of the German act gather, and probably will be urged by the affirmative to-night.

The theory that the payment of large sums of money as compensation to injured workmen, would logically result in a diminution of pauperism, is a beautiful theory, but what we are looking for is results. The last imperial report on pauperism in Germany shows that in the ten years previous, pauperism in Germany had more than doubled, both in the amount spent to relieve pauperism, and in the number applying for relief. During the same time pauperism in England and other European countries has actually decreased, thus going farther to show the failure of the German plan. The *London Spectator* characterizes the German system as a pauperizing institution. H. W. Farnum, in the *Yale Review* says, "The German act tends to increase pauperism, through teaching the lower classes to depend on others for support." Thus we see the German plan has not diminished pauperism, but has had a tendency to increase it.

Not only has the act failed in decreasing pauperism but it has failed to bring about more friendly relations between employer and employee. The Social Democratic party of Germany, which represents the laboring class and which opposes this law, has multiplied its strength by twenty since starting the fight on this law. The employer, being forced to compensate industrial accidents, sees no reason why he should concede more until he has to, and the laborer, assisted by the government in one case sees no reason for yielding to

the employer in a second. The statistics of the German Imperial office show that since the adoption of the Industrial Accident Insurance Law, labor disturbances have not decreased but increased, both in number and in violence. The failure of the German act in doing away with industrial troubles may easily be seen.

The affirmative will maintain that the German act has succeeded in decreasing industrial accidents in Germany. This is not true. Dr. Friedensburg, for twenty years President of the Imperial Insurance office of Germany, and Professor Bernhard of the University of Berlin, both say that the law has not to any noticeable degree decreased accidents. A single statement taken from the report of the Imperial Insurance office, refutes the idea that the German act has in any way succeeded in reducing accidents in Germany. This report says, "Industrial accidents in Germany have increased to seven times what they were when we started operation, numbering 670,000 last year." Why, gentlemen, according to the report of the Minnesota bureau only 500,000 industrial accidents occurred in the United States last year. Think of it, gentlemen, our population is a half larger than that of Germany, yet we have only three-fourths as many industrial accidents per year as does Germany. Still the gentlemen of the affirmative will characterize the German act as successful in preventing accidents. If this be success, it seems that the present American method of individual effort toward the prevention of accidents, must at least not be failure.

As to the success of the German law in doing away

with litigation, Dr. Friedensburg says, "It is in no wise shown that this law has decreased the amount of litigation." The Imperial Statistics bureau of Germany shows that during 1909, the last year for which statistics are available, over seventy-six thousand industrial accident insurance cases were taken into the courts and twenty-three thousand were carried to the next court of appeals, a total of ninety-nine thousand cases, the largest number in the history of accident insurance in Germany. Does this sound like a decrease in litigation? A larger per cent. of accident cases are settled outside of court, in the United States than in Germany. In England where a compensation law is worked out on different principles and where over one-half as many accidents occurred only eight thousand cases were taken to the courts and one hundred ten appealed. One-sixth of the German cases go to the courts, one-fortieth of the English cases. Does this look as if the German principles were particularly successful in decreasing litigation?

Besides having failed in most of the claims which the advocates of such a plan set up for it, the German act has introduced certain evils into Germany which preclude its adoption here. First, it has resulted in shamming and deceit. If time permitted we could give you innumerable examples of cases where fraud was the only basis of the claim, of quack doctors and compensation attorneys whose only occupation is to swindle the insurance bureau. The most notorious case is that of a former workman, who while receiving full compensation under the act, for complete disability on account of a

nervous disorder, is at the same time making over \$100,000 per year, through the creation of fraudulent compensation claims for his clients. But time only permits us to submit a few statements from authorities on this subject. P. T. Sherman, former Labor Commissioner of New York, lays a large share of the claims to deceit and trickery. The London *Spectator* says, "This law is a breeder of crime and corruption." Dr. Friedensburg, ex-President of the German Insurance office, characterizes the industrial insurance law of Germany as a hot bed of fraud, greed, and corruption. Professor Bernhard of the University of Berlin says that the physicians' association of Germany lays seventy-five per cent. of the so-called accidents to pension hysteria, consequently frauds upon the state. This, gentlemen, is but one of the great evils incorporated in the German act, which we are bound to inherit and inflict upon our people if we transplant the principles of this act to the United States. When you force a people into a scheme you can but expect to see them take every advantage within their power.

Gentlemen, thus far we have shown that whatever success the German principles may have had in Germany, their success is not sufficient to warrant their adoption here, first, because they have failed to accomplish the results which their advocates claim for them; second, because they have fostered certain evils which alone would warrant us in refusing to adopt the principles of such an act. My colleagues will show that the principles of the German act are inapplicable to this



country, and that the principles of 'compulsion' and 'mutual insurance along trade lines' are objectionable.

SECOND NEGATIVE, LESTER C. AREY, IOWA TEACHERS'  
COLLEGE

Ladies and Gentlemen: My colleague has pointed out to you the features of the German industrial insurance law and the objections to applying the principles of this proposed plan in the United States. He has also shown you that the plan has failed in the very purpose for which it was created, that the supposed success of this law has been greatly exaggerated, and in its place we find a code of laws serving as a stumbling block for the German people. My purpose is to prove that the principles of this proposed plan would not be applicable in the United States. We believe this for three reasons: (1) that natural and social conditions are radically different, thus bringing up new difficulties; (2) the German plan has inherent qualities which would be objectionable both to employer and employee; and (3) its successful enforcement under our loose system of laws would be an impossibility.

In the first place, gentlemen, the negative are opposed to the adoption of the German plan of industrial insurance because natural and social conditions are radically different.

Statistics show that sixty per cent. of the German people are employed in factories, while in the United States only a very small per cent. is thus employed. Again statistics reveal that the German employees are engaged in a

comparatively small number of large factories, while in the United States large factories are abundant. Then too Germany is strictly an industrial nation. Owing to her large population and her limited territory, agriculture has been restricted. But such conditions do not exist in the United States. From the beginning we have been an agricultural nation and in spite of the fact that the trend of population is toward the city, there are twice as many people engaged in agriculture as there are in Germany. Again, our country is 15 times as large as Germany. Texas alone comprises more square miles than the German empire. Because of this and the consequent diversity of our industries it would be impossible to unite employers into mutual associations without gross injustice being done to some. Our government is radically different from that of Germany. The people of the German empire have been accustomed for ages to submit to the stern authority of kings and emperors. They have had little voice in governmental affairs, and thus have learned not to question the laws. Naturally under such conditions the German plan met with no opposition, it fitted in with the habits, tendencies and ways of teaching of the German people. But in the United States, conditions are vastly different. Our laws in the beginning were made by the common people, and from that time on have been amended by these same people. Created as the laws are in this manner, the adoption of the German system would simply result in too great leniency toward the employee. Because of our laxity of laws, graft and corruption could be carried on

here even to a greater extent than it has been carried on in Germany. As Frank E. Law says, "The German system in the United States would put the greatest possible strain upon administrative machinery, because of the disbursement of huge sums of money practically without check."

Then, too, because our officials are chosen by the people, the German system would be inefficient in the United States in sorting out fraudulent claims since the choice of state officials will be dictated by politics, and these officials as Frank Law says, "Would curry favor with claimants and their friends by making adjustments pleasing to them." This has resulted even in Germany under an imperialistic policy. As Dr. Friedensburg states, "Numerous classes of parasitic lawyers have sprung into activity inventing and pressing claims, and neighborhood doctors, whose scruples will not permit them to sustain such claims, are boycotted and threatened with ruin." Thus we see, gentlemen, that because of our radical difference in Government from Germany, because we differ greatly in size and in occupation, the proposed plan would not be applicable in the United States.

In the second place this proposed plan would not be applicable in the United States because it possesses undesirable tendencies. The affirmative advocates a system of accident insurance including the principles of the German act in the United States. To prove that such a plan would be satisfactory they have dwelt upon the apparent success of the plan in Germany. But they forget that the German social insurance act includes sickness, acci-

dent and old age. A working man is compensated for accidents and injuries until he reaches the age of 60 or 70 when he is placed upon the old age list. Such an act takes care of the aged laborers after they have outlived their usefulness. But under such a plan as the affirmative advocates for adoption in the United States that of accident compensation only, no provision is made under the law for aged laborers. Statistics prove that there are twice as many accidents to men over 50 years of age as to men under 50. H. Sherman says, "Employers discriminate considerably, not only because the aged are somewhat more liable to injury, as appears from German statistics, but also, and more particularly, because accidents to elderly persons often lead to permanent disabilities caused not so much by injuries, as by old age." As our ranks of laboring men are constantly being re-filled by younger men and by a vast body of educated immigrants, how long would it be before the older men would be crowded out? Even now the preference is given to younger men. Were such a system as the affirmative advocates adopted, since the employer would bear the burden of expense of accident, it is self-evident that he would reduce the number of older employees to the lowest figure possible. The maintenance of this class of laboring men with their families would then fall upon the state. Thus we see that one of the purposes for which the German act was created, that of reducing pauperism, would not only fail entirely in the United States but would tend in the opposite direction.

**It is generally granted that the population of the old**

world is more stable. There is little immigration from one European country to another, and the employer, once an employer, generally remains an employer, the employee, an employee. A system like the German system once it was understood by such a nation would not create the confusion that it would in the United States where the population is migratory, where thousands of immigrants are pouring in year after year, and where every third generation starts life at the bottom of the ladder. A well-known economist says, "The German system is suitable only for a stable and homogeneous industrial population and stable industrial conditions, whereas our industrial population is made complex by immigration and our small employees are constantly changing, changing from the condition of employee to that of employer." In conclusion, gentlemen, because the German system of accident compensation would tend to crowd out our aged laborers, thus throwing them upon the charity of the state and because it is not suitable to the occupations and conditions of American laborers, it would be inapplicable in the United States.

In the third place, the negative is opposed to the adoption of the proposed plan because it could not be enforced. It would simply be used as a tool in the hands of political parties, and the moneyed interests. The German system unites all the employers into one association under governmental control. Such a plan in the United States would throw into one association the Standard Oil Company, and the weak independent factory which is making a struggle for existence against the

great corporation. It would unite the International Harvester Company and the Plano Company into one association. The result of such a system is self-evident. The great trusts controlling dozens of factories, would run each factory under a different name, thus polling as many votes in the mutual association as they had factories. In this way they could inevitably drive out of business any small employer whom they wished to crush. They could raise the requirements, they could levy a larger assessment, in order, as they would say, to create an emergency fund, and in such a manner make demands, which the small factory owner could not meet. Now the affirmative may ask why has this difficulty not been experienced in Germany? Why? Because the German people have watched closely the development and political tendencies of each industry, they have not allowed corporations to slip from their grasp as have the American people, and most important of all there is not a single large corporation in Germany. But even without the large corporations great difficulty has been experienced. Dr. Friedensburg, whom I have quoted before, says that the Socialists have made of their control of the sickness insurance associations in Germany a means for the propaganda of socialism, and even among the employees there is absolutely no harmony because different classes of them are constantly manoeuvring for control. Such, gentlemen, has been the disastrous result of this plan under a monarchical form of government, with the close, well-constructed machinery of the German nation. What would be the result of such a

plan under the American system, where the choice of officials is dictated by politics, where the clash between employer and employee is constant, and where the political ring with its graft and corruption even makes its power felt on the supreme court bench. Adelbert Moot asks, "If such graft and corruption is possible under the German administration, which is on the whole very strict and punctilious, we naturally ask, what would it be if the officials were bad or corrupt, or subject to political influence?" Tecumseh Sherman says, "Such a system is impossible under our loose governmental system." A well-known economist says, "Under such a plan would not the shop of the big concern be found safe and so get a minimum tax, while the shop of the small concern would be found unsafe, and so get a maximum tax?" This is the general opinion among American economists. The evidence of such men who have made a careful study of this question, not as to its success or failure in Germany but as to its applicability in the United States, is not to be overlooked since it reveals the inadequacy of the German plan of industrial insurance to cope with American problems.

Gentlemen, if we are going to adopt a system of industrial compensation for our working men, we must adopt a method suited to American industrial conditions and American government. The difference in the two nations clearly reveals that a system which would solve German problems could not solve like problems in America. Why adopt a plan like that proposed by the affirmative, a plan which was made to fit German conditions and

German ideals and, as I have pointed out to you, would in the United States be entirely inapplicable; a system complicated, inefficient, and difficult to establish; a system which instead of serving as a curb upon political control actually tends in the opposite direction. In the words of Attorney Lois Marshall, "It is far better to adopt our own theories of legislation along natural lines than to adopt the experiment of some other nation."

Now in conclusion, gentlemen, I have pointed out to you that the principles of the German insurance law would not be applicable in our country, since social and industrial conditions in Germany and the United States differ radically, since the German plan has inherent qualities which would in the future be objectionable, and lastly because such a system in America could not be successfully enforced. My colleague will point out to you the undesirability of the principles of the proposed plan of compensation.

**THIRD NEGATIVE, W. D. KOESTER, IOWA TEACHERS'  
COLLEGE**

Ladies and Gentlemen: There seems to be a slight misunderstanding as to what the principles of the German Industrial Accident Insurance Law really are. One of the principles as laid down by the affirmative, that employers and employees should bear the burden of compensation jointly, we accept, and believe, as they do, that it should be adopted in the United States. We agree that the idea of compulsion, that every employer should be compelled to pay and every employee to re-



ceive compensation, is a principle of the German act, but we do not agree that it should be adopted in this country. Nor do we agree with the affirmative in their interpretation of the principle of insurance. They have told you the principle is that of collective insurance of the employers, and have thus omitted the vital feature of the principle, which is collective insurance along trade lines. Gentlemen, this is not our own arbitrary interpretation of the German principle of insurance. This is the principle as laid down by Schwedtman and Emery, authorities recognized and quoted by our opponents, who in quoting Dr. Neiser say, "Another principle is that of insurance in associations organized along trade lines." Mr. McKitrick, member of the Wisconsin Industrial Commission that drafted the Wisconsin Compensation Law, says, "One of the vital features of the German law is the principle of compulsory mutual insurance along trade lines." In the interpretation of this principle we agree with these authorities rather than with the affirmative. The principles then which we are discussing are: (I), joint payment of compensation by employer and employee; (II) the principle of compulsory payment of compensation; and, (III), compulsory mutual insurance along trade lines. We agree with the affirmative that the first mentioned is sound in theory, and applicable to the United States, but we do not favor the adoption of the other two.

You will agree with me that laws do not create the spirit of a people, but that the spirit of a people determines its laws. This fact causes us to question whether

the principles of the German Industrial Insurance Law are sufficiently in harmony with the spirit of the American people to warrant their adoption in the United States. My colleagues have shown you that these principles have failed to accomplish the purpose for which they were enacted, and also that because of the spirit which permeates American society, they are impracticable. We will now show you that because of the character and ideals of the American people, these principles are undesirable and unnecessary.

The principles of the German Industrial Accident Insurance Law are undesirable because they are opposed to our ideals of government. Let us first take up the principle of compulsion, compulsory payment of compensation. This principle is undesirable because it is opposed to our ideal of freedom for the individual. We know that for centuries the English speaking people have hotly resisted compulsion in any form. The English lords compelled King John to sign the Magna Charta; the pilgrims refused to submit to the dictates of a church; the colonists rebelled against the compulsory measures of Parliament. This ideal of freedom has become the foundation of all our customs and laws. No caste system has ever been recognized in American legislation; no royalty is tolerated; laws have been liberal in allowing the individual to make the most of himself through his own personal efforts. Our ideal is that of freedom for the individual. In Germany a directly opposite ideal prevails. There, it is almost impossible for a man, after he has once learned a trade, to forsake it and take up

something else; the government has hampered the growth of private corporations by taking large industries under its own control; the government has looked upon its citizens as children to be cared for and looked after, rather than as men, capable of handling their own affairs. Now the principle of compulsion, the outgrowth of this German paternalistic ideal, the affirmative speakers desire to transplant to the United States. They wish to restrict freedom by placing a paternal and despotic power in the hands of the federal government. Gentlemen, this principle then, is undesirable because it is opposed to our ideal of freedom for the individual.

Another ideal of our government which the principle of compulsion is opposed to, is the idea of leading rather than of driving the people. The government has never yet attempted to regulate unsatisfactory conditions by force. Before attempting to solve any new problem, the government has tried out its solution in its own sphere. For example, at one time state banks were in a deplorable condition, reserves exhausted, credit gone. Instead of trying to regulate these banks, the government established national banks as a pattern for others to follow. What was the result? To-day state banks in Iowa enjoy a business ten times as great as that enjoyed by national banks. This case shows us that the government has tried to lead and not to drive its citizens. The principle of compulsion which the affirmative advocate is directly opposed to this idea. It is in sympathy with the policy of France before the Revolution, the policies of Spain, Italy, and Russia—the idea of driving and forc-

ing rather than advising and leading, but it is opposed to our own satisfactory ideal. This principle, then, is undesirable because it is opposed to our ideals of government.

Again the principle of compulsion is undesirable because it tends to alienate citizens from the government. As soon as a government adopts a policy of force and compulsion its citizens will grow away from it; and, instead of looking upon that government as a friend which seeks to aid them, they will look upon it as a domineering power which seeks to oppress them. The principle of compulsion alienates citizens and governments. What caused the overthrow of Charles I? Compulsion and oppression. What caused the French Revolution? Compulsion and oppression. What caused the natives of India to rise against England, or the recent upheaval in China? What is responsible for the growth and the attitude of the Social Democrats toward the German government? Is it not dissatisfaction with the rule of a paternalistic government? We have no assurance that our people will take to the principle of compulsion any more kindly than do the people of other lands, and since this principle alienates citizens from the government it should not be adopted in this country.

Thus far, gentlemen, we have considered, only the one phase of compulsion, compulsory payment of compensation. Let us now look at the other side, compulsory mutual insurance along trade lines. Do not understand that we oppose this form of insurance in all cases, we do however object to making this, or any form, compul-

sory. And yet, in addition to the evils of compulsion which we have just pointed out, there are some very serious objections to this form of insurance in itself. In the first place, compulsory mutual insurance along trade lines is undesirable because it gives a large corporation an undue advantage over a small manufacturer. Suppose William Galloway of Waterloo were compelled to join a mutual association with the International Harvester Company. The latter, by virtue of its many factories could control the policy of the association, and by making insurance rates and demands for safety devices so high that Galloway could not comply with them, force him out of business. Or if you compel the Standard and Hawkeye Oil Companies to form a mutual association you will place in the hands of the Standard that power which for years it has been looking for, the power to crowd the Hawkeye to the wall. My colleague has shown you even more fully how this principle has not done away with unfair competition and how the large manufacturer is benefited at the expense of the small employer. Since this principle of compulsory mutual insurance along trade lines will give a large corporation an undue advantage over a smaller one it should not be adopted in the United States.

In the second place the principle of compulsory mutual insurance along trade lines is undesirable, because it places an unwarranted drain on industry. We must remember that pensions once granted must be paid during the times of depression and strike the same as dur-

ing periods of industrial prosperity. How shall these payments be met? The affirmative says, from the reserve of the associations; but, gentlemen, think of the enormous reserve that will be required to tide an industry over a period of depression or strike. Suppose the cotton crop of the south should fail. As a result most of the New England factories would be compelled to shut down, and although no insurance fee is paid into the association, previously granted pensions must be paid. We see how enormous a reserve would be necessary and the piling up of these reserves is a severe handicap to industry. Or, take another example. The number of deaths alone resulting from mine accidents in the state of Pennsylvania has averaged 1500 annually for the last eight years. At the end of five years the pension rate on deaths and accidents would exceed \$6,000,000. Now suppose a strike similar to the one in 1902 should take place. Although no insurance fees are paid, the pensions must be paid and that from the reserves of the association. Here again we see how enormous a reserve is necessary, and the piling up of these reserves is a severe handicap to industry. This fact is recognized even in Germany. Norton Pinkus, who in general is in favor of the German law, is forced to admit that "even in Germany the conviction is ripening that compulsory insurance along trade lines is a severe handicap to industry." If this is true during a period of industrial prosperity, such as Germany has enjoyed for the last twenty-five years, what will be its effect in times of de-

pression and strike? Gentlemen, the principle of compulsory mutual insurance along trade lines is undesirable because it places an unwarranted drain on industry.

Thus far we have shown you that the principles of the German Industrial Accident Insurance Law are undesirable. The principle of compulsion is undesirable because it is opposed to our ideals of government and because it tends to alienate citizens from the government. The principle of compulsory mutual insurance along trade lines is undesirable because it gives a large corporation an undue advantage over the small manufacturer, and because it places an unwarranted drain on industry not only in times of industrial war and depression, but even during periods of industrial prosperity. In addition to this, the principles of the German law are unnecessary. There is a better way of accomplishing the purposes which these principles attempt to accomplish, and therefore they are unnecessary. Instead of compelling all employers to join mutual associations let each employer select what form, stock, or method of insurance he will carry. Thus the evils of compulsion and compulsory mutual insurance along trade lines will be eliminated.

The only objection which the affirmative has made to this plan of optional insurance, is that no one will take advantage of compensation unless compelled to do so. This, gentlemen, is not the case. The nations of Europe have not found it necessary to make compensation compulsory. Ninety-eight per cent. of Denmark's workers adopted it voluntarily; in Sweden and Belgium results have been almost equally satisfactory; the English system

of free associations has been lauded by an ardent supporter of the German law. Here in America, compulsion is likewise unnecessary. Schwedtman tells us that of thirteen thousand employers who were asked their opinion concerning compensation, over ninety-eight per cent. favored it. Voluntary state laws have been taken advantage of. In the Report of the Pennsylvania Industrial Accident Commission we find these words, "In one state where the law has been in force but a year, only three employers have failed to accept the compensation section." Since the willingness to pay compensation accepts free insurance voluntarily, we maintain that the compulsory principles of the German law are unnecessary.

Again these principles are unnecessary because a greater amount of good results from free action than from compulsion. President Hadley of Yale says, "There are two ways of inducing an individual to act: his own conscience, and the policeman's club. When people are willing to be ruled by conscience the club becomes unnecessary." Schwedtman says that only when the right spirit exists can we have the desired results. Gentlemen, the right spirit exists among American employers, and therefore the club of compulsion is unnecessary. Remember, gentlemen, it was not compulsion that brought about better factory conditions in the United States. It was not compulsory mutual insurance that established the pension system for the Remington Typewriter and National Cash Register Companies. It was not compulsion that did away with phosphorous poison-



ing in the match industry, or that abolished Sunday labor in the steel mills. It was not compulsion that established play-grounds and swimming pools on the property of the steel corporation at McKeesport and in Pittsburg. It has been the spirit of right, the feeling of obligation, the ideal of humanitarianism that has brought about better conditions for the laboring man. Since no law however perfect can supply this spirit, we of the negative maintain that the compulsory principles of the German Industrial Accident Insurance Law are unnecessary.

Gentlemen, we have shown you that the principles of the German law should not be adopted in the United States. Not only have they failed to accomplish the purposes for which they were enacted, but they are also impracticable. They are undesirable because they are opposed to our ideals of government, because they tend to alienate citizens from the government, because they give a large corporation undue advantage over a small manufacturer, and because they place an unwarranted drain on industry, and, finally, because they are unnecessary since a spirit exists in the United States which is far in advance of these old world principles and ideals.

FIRST NEGATIVE REBUTTAL, LESTER C. AREY, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: The affirmative has maintained that the efficiency of the German workingman has been due in a large degree to the German system of accident compensation. P. T. Sherman, who has made a

careful study of the question says, "Ask any German employer to what he attributes the efficiency of his men and he will promptly reply, (1) to industrial training, (2) to the German's ability for organization." Notice, no mention is made at all of the system of accident compensation. Gentlemen, such a statement coming from a careful student is not to be overlooked, since it shows in what light the German employers regard their system of industrial insurance.

The affirmative has also dwelt upon the relative cheapness of their plan, and the unnecessary expense which enters under the plan proposed by the negative. But the affirmative have no accurate statistics upon which to base the cost of their plan. The commissioner of labor of Ontario says, "The relative cost of accident insurance to the employer in Germany is a thing about which nothing is known." In the words of the United States commissioners it is practically an impossibility to present an accurate statement of the cost of German accident insurance. The reasons why expense statistics are not available are (1) the accident insurance department is so intermingled and interwoven with the sickness and old age departments that it is impossible definitely to separate them. (2) the German employer's aims have not levied a tax which will cover all expenses. But even without accurate statistics we find that the cost of German insurance to the employer has increased at an alarming rate. In 1886 the cost to the employers per \$1000 of insurance was 8.68. In 1910 the cost to the same employer of the same amount of insurance was 26.06, an

increase of 292 per cent. The cost in the mining industry increased 320 per cent., in quarrying 520 per cent., and in the drayage industry 1296 per cent. Such a startling increase in expenditure for industrial insurance shows that the equilibrium has not been reached, nor can any yearly table of statistics serve as a comparison with the expense of other plans since the demands upon the employer are annually increasing.

It has also been stated by the affirmative that in case of a catastrophe such as the Cherry Mine or *Titanic* disaster the insurance companies in which the employers would be insured under our system would not be able to withstand the strain. Take for example the San Francisco earthquake. The fire insurance companies in general met the demands; why could not a life insurance company do the same? Besides, the large insurance corporations as the United Casualty Company have formed what they call a "shock absorber." Under this plan each insurance company insures a certain amount of its liability in another corporation. So in case of disaster the loss is not borne by one individual company. It is borne by them all. Notice that there is no attempt toward a mutual insurance association as the affirmative may maintain; each employer simply insures a certain amount of his liability in another insurance field. In this way the employer through his life insurance companies would be able to meet the demands of any industrial accident.

Furthermore, the affirmative advocates a board of commissioners to take charge of the administrative section

of the proposed plan. We ask how these officials are to be selected. Are they to be chosen by popular vote or appointed by the governor? What is to hinder such a plan from degenerating like many of our public offices, where officials change every time there is a change in politics? Gentlemen, we want to keep away from politics, political pulls and logrolling, and while advocating no panacea for American ills we would do far better to adopt the conservative system upheld by the negative which takes the power entirely out of the hands of politics, and places it in the hands of the individual employees.

SECOND NEGATIVE REBUTTAL, W. D. KOESTER, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: The affirmative has told you that all leading authorities advocate the adoption of the principle of the German Accident Insurance Law. While it is true that a few of them favor compulsion, not one favors the principle of compulsory mutual insurance along trade lines. Allen Foote said to the Ohio legislature, "The method of insurance should be elective." Schwedtman says, "No class of insurance should be given the monopoly." J. S. Rowe, vice-president of the Association of Surety and Casualty Underwriters, says, "Employers should have the widest possible latitude in carrying these obligations." Sherman says, "Employers should have the right to choose the form of insurance." Carroll D. Wright says of these principles of insurance, "The voluntary character of such an institution makes

it all the more effective." Pinkus in the *Yale Review* says, "We may safely assume that Germany will have to compromise with some voluntary scheme, because the principle of compulsory mutual insurance is quite inadequate." These are the words of men who, our opponents admit, are authorities. The affirmative speakers have no grounds for contending that authorities favor the principle which they are advocating.

The affirmative says that most European countries have adopted the German principle of compulsory mutual insurance. This is not true. In all, twenty-four countries have compensation laws. Nine have adopted state insurance; eight have made the form of insurance optional, and of the other seven, Germany is the only one that has adopted the principle of compulsory mutual insurance along trade lines. Of the fifteen states in our country that have compensation laws, only one has adopted the German principle of insurance. The statement made by the affirmative, that all countries have adopted the principles of the German Insurance Law, is false.

The affirmative says that in the matter of insurance if compulsion is good for one, it is good for all; that if a man is not wise enough to take care of himself someone else should take care of him. But, gentlemen, if you enact a law to control the acts of an individual in such a way as to decrease his own feeling of responsibility by giving him the idea that society will eventually take care of him and his dependents, you have harmed and wronged that individual far more than can be esti-

mated. President Hadley of Yale says, "We should not countenance a system which will remove from the individual the feeling of self-reliance and responsibility, and cause him to look to the community rather than to himself for aid in case of accident, sickness, or old age." Apply this to the German law. By compelling a man to insure and to accept compensation you are exercising a paternal power over him and leading him to believe that society will, in the last analysis, support him. Gentlemen, the principle of compulsion is highly undesirable, because instead of increasing a man's responsibility you are decreasing his self-reliance and fostering in him a feeling of dependence on society. Compulsion is by no means desirable.

The affirmative says that the principle of compulsory mutual insurance along trade lines is desirable and necessary, because it is the best form of insurance to use in connection with compensation. They attack state insurance. Now if state insurance is bad, how is it possible that nine nations have found it successful? If it is undesirable, why do the people of Norway and several other countries, where the form of insurance is optional, adopt it in preference to other forms? If it is un-American why has the Ohio legislature seen fit to adopt it as one of the possible means of insurance? The affirmative must explain these facts before they can establish their claim that compulsory mutual insurance along trade lines is better than state insurance.

Again, the affirmative says that stock insurance is unsatisfactory. In this our opponents are also misinformed.

The Ætna Company is but one of many insurance companies which offer opportunity for wholesale insurance, basing the premium rate on actual conditions, compelling the installation of safety devices, guaranteeing payment of compensation,—in short, operating exactly as a mutual company, such as the affirmative advocates will operate. These companies are subject to the same supervision, and accomplish the purpose as well as a mutual company can.

The affirmative also says that self-insurance has been recognized as a failure. This is not the case. The Pennsylvania, Baltimore and Ohio, and Canadian Pacific Railroads, the Steel Corporation, International Harvester Company, the Brewers' Association, and many other companies carry self-insurance *and are paying compensation.*

Walter Lord, vice-president of the Civic Federation says, "Where the burden falls directly on the employer, there is active inducement for prevention of accidents." Schwedtman, Rowe, Emery, Sherman, and many others strongly favor self-insurance. In view of these facts, the affirmative is not justified in saying that self-insurance is a failure. Now since these three forms of insurance, state, stock, and self-insurance are even better than the mutual plan proposed by the affirmative, the principle of compulsory mutual insurance along trade lines is both undesirable and unnecessary.

Gentlemen, two plans have been proposed for your consideration to-night—the one embodying the principles of compulsion and compulsory mutual insurance along trade

lines, the affirmative plan; and the other embodying the principle of freedom and optional insurance. The affirmative principle has failed to decrease strikes, accidents, litigation and pauperism, while under the operation of our principles all of these evils have been lessened; their plan creates a monopoly of insurance and drives our present insurance companies out of business; our plan provides for further competition and increases the business of government regulated insurance companies; their principle is contrary to our ideals of government, while those which we uphold are in sympathy with American spirit; their plan is one of paternalistic control made to fit German conditions thirty years ago, while ours is one which increases the spirit of responsibility and self-reliance, and meets conditions of to-day in this country; the principles which they advocate have been adopted only in Germany, those which we uphold in every other civilized country on earth.

THIRD NEGATIVE REBUTTAL, W. H. VEATCH, IOWA  
TEACHERS' COLLEGE

Ladies and Gentlemen: The speaker who just left the floor made the statement that twenty-five times as many industrial accidents occurred in the United States during 1911 as occurred in Germany during that year. Let us see where this statement leads the gentlemen. According to the German Imperial Insurance bureau 617,000 industrial accidents occurred in Germany during 1911. Twenty-five times 617,000 would give us over 15,000,000 as the number of industrial accidents in the United



States during 1911. We know this to be an impossibility. And yet if the gentlemen's statement is to be believed, this must be the case. The Minnesota bureau of statistics says that 500,000 industrial accidents occurred in the United States during 1911. Compare these facts with the gentleman's figures.

Now as to the principles of this act. We of the negative have shown that all of the authorities on industrial insurance agree that 'compulsion' and 'mutual insurance along trade lines' are principles of the German law. This the affirmative has denied, but have not shown one item of proof. Gentlemen, we do not intend to discuss the statements which the affirmative advance as principles on their own unsupported word. We intend to continue, as we have done so far, to discuss the principles of the German law as outlined by Schwedtman, McKittrick and other authorities on this subject, and to show that the principles of 'compulsion' and of 'mutual insurance along trade lines' should not be adopted in the United States.

Again, the principles of the German law have brought an evil into Germany which is a direct result of this act. We refer to the fostering of monopoly. According to the author of this question, one of the most vital and important of the principles of this act, is that of 'mutual insurance along trade lines.' What does this principle mean? It means that every employer must insure himself against accidents, in a mutual insurance company organized in his own trade. It means that no

other insurance company can enter that field and compete for that business. It means that every private insurance company has been driven by law out of the industrial accident insurance field of Germany. It means that a gigantic monopoly of an insurance business amounting to \$60,000,000 per year has been created in these mutual companies and fostered by the government. Gentlemen, it has not been the custom of the United States to foster, to create monopoly, to forbid its citizens to enter any business they desire so long as it is honest and does not work harm to any other individual. The affirmative can give us no adequate reason for making such an unwarranted and revolutionary change in our industrial life. As long as this monopoly fostering is a direct result of one of the principles of this act, it necessarily follows that it will come to the United States along with the principle.

Furthermore, the affirmative has yet to show, why the United States should suddenly abolish her anti-trust policy and start a monopoly-fostering policy. The affirmative has yet to show a single reason for driving our long-established, well-working, government-controlled insurance companies from the industrial insurance field. They have yet to prove that the employer should either be forbidden to insure himself with a long established company or that he should be forced to enter the insurance business himself. Gentlemen, as these things are direct results of the principle of 'mutual insurance along trade lines' which according to all authorities is a prin-

ciple of this act, before the affirmative prove that such a principle should be adopted, they must prove the results of such a principle to be desirable.

As to the comparative practicability of the affirmative and the negative plans we have only to look to Des Moines. Last Tuesday a measure including the principles of the German Individual Accidental Insurance law which the affirmative advocate was brought to a vote in the House. The measure was defeated and a substitute measure including the principles which we have advocated to-night was brought up and passed. Then yesterday this measure, the essence of which we are advocating, was brought up in the Senate and passed. Thus we see where the legislature of Iowa stands on this question.

We of the negative have shown to-night, first, that the principles of the German law have not worked sufficiently well in Germany to warrant their adoption in this country, inasmuch as they have not accomplished the purpose for which adopted, and have also brought great evils into Germany. We have likewise shown that the differences—industrial, racial, social and political—between Germany and the United States are sufficient to preclude the adoption of such principles in this country. Lastly, we have shown the principle of ‘compulsion’ and of ‘mutual insurance along trade lines’ to be undesirable for adoption in this country and unnecessary.

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# COMPULSORY OLD-AGE INSURANCE.

## II

### *UNIVERSITY OF TEXAS vs. UNIVERSITIES OF COLORADO AND MISSOURI*

The debates in the new triangular composed of the universities of Colorado, Missouri, and Texas were held April 18, 1913. The teams had two members each, and the Negative was victorious in each debate, Texas, however, getting the only unanimous decision.

The question discussed was the old-age pension feature of European Industrial Insurance, and was stated as follows:

Resolved, that a policy of compulsory old-age insurance should be adopted by our federal government. Constitutionality waived.

The speeches of the Texas debaters were contributed by Mr. E. D. Shurter, Professor of Public Speaking in the University of Texas.





# COMPULSORY OLD-AGE INSURANCE

## *UNIVERSITY OF TEXAS vs. UNIVERSITY OF COLORADO*

FIRST AFFIRMATIVE, EUGENE H. CAVIN, UNIVERSITY OF  
TEXAS

Mr. Chairman, Honorable Judges, Ladies and Gentlemen: In offering the plan of old-age insurance which we of the affirmative advocate tonight, we offer a plan which England, after forty years of experiment with industrial insurance, has seen fit to follow as the best remedy for the relief of her old-age poor; a plan which has operated in Germany for half a century, and which has been found to work so successfully that this year the plan in Germany was extended threefold; a plan which Denmark, which France, which every great civilized country in the world today, with the single exception of these United States, is successfully operating and constantly extending.

Briefly, the plan is this: Throughout the laborer's active life, a small monthly premium is to be paid for the support of old age. Of this small premium, the laborer pays a part, the employer pays a part, and the government pays a part. The money thus raised is to be used for supporting those who would otherwise be objects of charity in their old age.

In the discussion this evening, it is my purpose to present the need of some plan for the relief of old age poverty in this country, and the intrinsic merits of the plan which we propose, while my colleague will describe the successful working of the plan in every great and civilized country in the world, except in these United States.

Year by year, as this country grows older, there is a gradual increase in the percentage of the old people in our population. The census of 1910 shows that from 1900 to 1910 the number of people in this country who had reached the age of 65 and over increased 869,000 or according to population, an increase of two-tenths per cent. A large number of this steadily increasing class are too poor to provide for themselves. This offers the steadily increasing problem of providing for them.

There are in this country 18,000,000 wage earners. There are 1,250,000 former wage-earners who have reached the age of 65 in want, and who are forced to depend upon public and private charity for support. Now, if every one of these 1,250,000 old-age dependents had a monthly income to take care of him, there would be no old-age poverty. If we could give just such an income to every old age dependent, it would certainly be desirable; if we could give this income at a very small cost, it would be more desirable; if we could give this income at no additional cost at all, it would certainly be most desirable. Let us see.

In an effort to take care of these 1,250,000 former

wage earners who have reached the age of 65 and who are in want, the people of this country are spending annually in public and private charity, \$220,000,000. Yet, although we are spending enough money adequately to care for our old-age poor, they are not adequately cared for. Why? Because of the lack of a systematic method for collecting and administering the money which is now being spent in a haphazard manner! Thus we see that this situation exists: We have 1,250,000 old-age dependents. We spend enough money to provide for them. But they are not provided for. Why? Because we have no systematic method for collecting and administering the money which we are spending! Now, ladies and gentlemen, what is it that we propose to do? We simply take the 1,250,000 old-age dependents we have. We then take the \$220,000,000 we are spending. And what we propose to do is to provide a systematic method for collecting and administering this money instead of allowing it to be wasted in the present haphazard manner.

Can such a plan be worked? Let us see.

We have 18,000,000 wage earners. We are spending \$220,000,000 to take care of the 1,250,000 wage earners who reach old-age dependency. But we are spending this money under a very haphazard plan, the administration of which costs a wasteful per cent of the capital. But we propose to do this: Dividing this \$220,000,000 by 18,000,000 wage earners, we find that \$12 per wage earner must be raised per year. Dividing this \$12 per year by 12, we find that \$1 per wage earner must be

raised per month. Dividing this \$1 per month by three, that is, the part of the premium paid by the government, the employer, and the employee, we find that the monthly premium which must be paid in order to put our plan into successful operation is  $33\frac{1}{3}$  cents. Now, how about the cost of administration? Why even in Germany, the country against which the opponents of our plan complain most bitterly, the administration only costs  $7\frac{1}{4}$  per cent. So we find that under our plan, the \$220,000,000.00 necessary to support the aged poor, can be raised at the small cost of a premium of  $33\frac{1}{3}$  cents. Furthermore, under our plan, the administration of this money only costs  $7\frac{1}{4}$  per cent, whereas, under the present plan the administration of this money costs many times as much. In other words, we simply replace chaos with system. Our plan has not one cent of additional cost. We simply propose that the money we are now spending shall be collected and administered in a systematic manner, instead of the present haphazard manner, in order to save the waste of misdirected expenditure.

How much better is our plan than the present plan of individual saving! Under the present plan of individual saving, each laborer must provide all the money which will be needed to care for him in his old age. But only one out of every fourteen ever reaches the age of 65 years, and needs this annuity. Therefore, the present plan is costing the laborers as a class, fourteen times as much as is necessary. To illustrate: Suppose fourteen laborers are serving under the present plan to

provide for old-age dependency. Suppose, for example, \$100 apiece will be needed to support those who reach old-age dependency. Now we have seen that only one of these fourteen laborers reaches old-age dependency. So, while these fourteen laborers must each save \$100 apiece, making a total of \$1400 which must be saved, yet only one of them reaches old-age dependency, and, therefore, only \$100 is needed to provide for old-age dependency of this class of fourteen. So we see that in providing for old-age dependency under the plan of individual saving, for every \$100 needed, \$1400 must be raised. Therefore, under our plan, \$1 of savings will go as far as \$14 of savings will go under the present plan. Then, since our plan does everything that the present plan of individual saving could do, and only costs one-fourteenth as much, isn't our plan better than the present plan? But granting the merits of our plan, some have questioned the right of the government to make it compulsory. Ladies and gentlemen, the government itself is based upon the right of society to control individuals where the welfare of society demands it. Individuals are compelled to pay taxes. Why? Because the welfare of society demands it. Individuals should be compelled to pay the premium on an old-age insurance policy! Why? For the same reason that the payment of taxes is compulsory: *Because the welfare of society demands it!* Because the rights of the individual are subordinate to the rights of society!

But let us see if the compulsory feature we propose is as bad as its opponents would have it seem. Fear-

ing compulsion because of the way it sounds, its opponents say: Let the plan be voluntary. But a voluntary plan could only succeed if the laborers would voluntarily take advantage of it. Then, if the laborers will voluntarily take advantage of the plan anyhow, we can do no possible harm by adding a clause which requires them to do so, because you do not affect a man when you require him to do that which he will do anyhow. Suppose the law which requires men to wear clothes when they go out on the street were to be repealed! Yet surely we would all wear clothes voluntarily. Then suppose that the next day the law requiring men to wear clothes were to be reënacted! How much would that affect us? Not one jot! Why? Because it would simply require us to do that which we would do anyhow!

So, if our opponents attack this compulsory feature, they find themselves in this embarrassing predicament: If the voluntary plan will not succeed, then the system, if adopted at all, must be compulsory. On the other hand, if the voluntary plan will succeed, it must be universally adopted. If it will be universally adopted anyhow, then the addition of a clause requiring it to be adopted will not in fact coerce anybody.

Now, having seen that the compulsory feature of this plan is not at all the paternalistic bogie its opponents would have you believe, we next naturally inquire: Is the compulsory feature simply a harmless addition, or will its adoption do any affirmative good? Even if the experience of other countries had not demonstrated that the compulsory feature is necessary to the successful ad-

ministration of the plan, the compulsory feature would still be rendered desirable because of the money it will save. Any voluntary system must be carried on by solicitors. Insurance company statistics show that it costs 40 per cent of the premiums to solicit and collect them. Therefore, any voluntary plan would cost 40 per cent more than will our plan, which dispenses with the services of these solicitors and collects the insurance through the employers.

If a voluntary plan, then, would succeed, the addition of a compulsory feature could do no harm; since the compulsory feature is necessary to the successful administration of the plan, and, furthermore, since the compulsory feature will save to the aged poor 40 per cent of their savings which under a voluntary plan they would lose, can any one seriously contend that the compulsory feature is not to be desired?

But aside from the good which thus directly flows from the plan, there is another, I would almost say a greater reason for its adoption. Picture to yourself the worn-out toiler, turned from the ranks of the industrial army because he is too old to work. Where does he go when the day of his usefulness is past? Sometimes he goes to the poorhouse; sometimes he goes to the street-corner to beg; sometimes he goes to the home of some poor son or daughter, where, although he knows there waits the loving welcome, he also knows he is too heavy a burden. So the burden of the old man's support falls at last upon the father of a family upon whose shoulders too many burdens already bear down. What is the re-



sult? In thousands of cases the children of this family must give up their education and go to work. The burdens must be borne! The child must help!

And of what avail in such cases, let me ask you, are your compulsory education and your child labor laws? What can they do when the wolf must be driven from the door? A thing must be possible before it can be done. Give us this system. Give this old man his insurance policy, and let him go to that home not as a burden, but as a help. Give the child of this home a chance, and let his footsteps turn from the factory whistle and answer the school bell. Then will you build up a healthy citizenship of free Americans!

Will you reject this reform, and turn these thousands of children away from the door of equal opportunity which we Americans love to boast is open to all? Will you reject our plan when we have shown you that there is a steadily growing need for some plan for the care of the aged poor in this country, because the percentage of the aged poor among our people is steadily increasing; that our plan makes adequate provision, and without additional cost, because it simply means that the money which we are now spending improperly, shall be spent properly; that our plan is better than the present plan of individual saving, because our plan does everything that the present plan does and only costs the laborer one-fourteenth as much; that the compulsory feature is to be desired, because it harms no one, is necessary to the successful administration of the plan, and will save to the aged poor forty per cent of their savings, which

under a voluntary plan would have to be paid to solicitors; that it will relieve thousands of families of a burden which will enable the children of these families to go to school.

It is for these reasons, together with the fact that compulsory old-age insurance has been adopted with marked success in every civilized country in the world, except in these United States, that we of the affirmative submit that the plan is necessary, practical and just, and should, therefore, be adopted in this country.

SECOND AFFIRMATIVE, DOUGLAS TOMLINSON, UNIVERSITY  
OF TEXAS

Honorable Judges, Ladies and Gentlemen: The most accurate statistics show that for every one thousand persons living at the age of twenty, five hundred will be living at the age of sixty-five, and two hundred of these will be in poverty and want. There are in this country today 1,250,000 human beings with human flesh and blood and hearts who are suffering the miseries of old-age poverty, too old to work any more, begging or dependent.

My colleague has shown in dollars and cents that these aged poor can be cared for under our plan without additional cost whatever, because our plan replaces the present unorganized wastefulness with an efficient system. Our plan will solve the problem.

All other plans are admitted make-shifts. No other plan in the history of the world has ever pretended to solve the problem of old-age dependency. In the his-

tory of mankind, only three other general plans have ever been offered: first, pensions or insurance by private corporations like the Steel Trust; second, Free Government Pensions; and third, Voluntary—instead of Compulsory—Government Insurance.

Of these three plans, pensions for aged employees by private corporations is the worst, because many corporations use the scheme not so much to provide for their aged employees as to add to the company's profit. For example, the Cambria Steel Company makes a profit of \$11,822 a year from their philanthropic old-age pension department. Further, old-age insurance for employees by private corporations prevents mobility of labor. The laborer must stay with his one company continuously for from fifteen to forty years in order to get his insurance; he must stay with his company no matter if labor is little needed there and great industries are crippled for lack of labor elsewhere; if the laborer is discharged or quits he loses his old-age pension forever; he is tied to the one company, regardless of sanitary conditions, regardless of the kind of work to which he may be shifted; he becomes a kind of chattel of the company, especially during his declining years, because if he leaves their service he can never hope for an old-age pension. In brief, insurance or pensions for aged employees by private corporations would tend to reduce free American laborers to the position of the serfs of the Middle Ages. Old-age pensions by private corporations add to the profits of the corporations, but from a social standpoint this plan is a bitter failure.

Free Government Pensions is the second plan. In this country we know what a pension system means; it means freely voting money out of the government treasury into the individual pocket. To relieve old-age dependency we would have to give a free pension to every needy and deserving old person of the nation. Our opponents can not defend such a system for this country because the cost would be prohibitive, and because our experience with military pensions shows, to speak plainly, that many congressmen buy votes with pension money. Fifty years removed from any serious war, we are spending more than \$158,000,000 a year in pensioning mostly "old soldiers" who never smelled gunpowder. Why? Because they vote for the man who will vote them the money. Now, adopt the universal policy of voting money out of the government treasury into the individual pockets of all aged persons, and there is before each politician and each party the constant temptation to attract votes by offering larger pensions to each person, and by lowering the age limit offering free pensions to larger numbers of people. The fact that many congressmen do not vote against excessive military pensions when only the old soldier vote is involved shows the danger of beginning the universal pension policy involving all voters. Our opponents will not defend such a system unless, like drowning men, they catch at a straw. Our plan of insurance guards against this danger by making each person help to pay through early life for the annuity he is to get in old age; thus there is no temptation to the laborer to vote for a larger an-

nuity than he needs for his own protection, because he himself has to help pay for it during long years before he can expect the benefits. England tried the old-age pension system for four years and gave it up to adopt our plan of compulsory insurance. The free old-age pension system is a failure.

For relieving old-age poverty, only one other plan has been tried in the history of civilization. The third plan is that of voluntary rather than compulsory old-age insurance by the government: offer old-age insurance to all, just as under our plan, but do not require the laborer to take advantage of it; let him take advantage of it voluntarily. This plan looks so good on its face that every nation has tried it first, but each nation has in time abandoned the voluntary plan to accept our compulsory plan. The reason is clear.

Under the leadership of Gladstone, England adopted the plan of voluntary old-age insurance by the government in 1864. Practically no one took advantage of it. In 1872 an expert committee was appointed to revise the plan, another expert committee again revised the plan in 1892. England tried every variety of voluntary old-age insurance, and in all the forty years literally did not write as much insurance as the London Prudential writes in ten days. France and Denmark had the same experience, and dropped voluntary old-age insurance to accept our plan of compulsory insurance.

Massachusetts has recently inaugurated the voluntary insurance system and has issued only fifty-six old-age policies. Wisconsin adopted the voluntary system and,

at the last report I could get, so few applications for insurance had come in that their bureau had not even begun to issue policies. Canada tried the voluntary plan, sent broadcast over the Dominion their advertisement bulletin on "Comfort in Old Age." Canada has issued two hundred and forty-four policies. Voluntary old-age insurance is a failure.

The system of pensions by private corporations is a failure; the system of free government pensions is a failure; the system of voluntary old-age insurance is a failure.

On the other hand, our plan of Compulsory Old-Age Insurance is succeeding in every great civilized country in the world except our own. Germany adopted it in 1889. Every laborer whose income was below \$476 was required to take out old-age insurance, the cost being divided between the laborer, the employer, and the government. This was the experiment of 1889; if it had been a failure, the whole scheme would have been repealed long ago; if it had been only a moderate success it might merely have been continued in operation without extending its scope; but the plan of compulsory old-age insurance has proved so universally satisfactory that it has been constantly extended. In 1899 it included all laborers whose incomes are \$1,250 a year, almost three times as much as it was at first.

The plan we propose is succeeding in Germany. No political party in Germany, no great economist or sociologist in Germany now advocates the repeal of the law. Their management is so efficient that it costs only  $7\frac{1}{4}$

per cent for litigation; the remaining 91½ per cent goes directly to the benefit of the insured.

Dr. Paul Kaufman, President of the German Imperial Insurance Department, says: "The successful handling of the labor problem by means of social insurance is one of the strongest factors in Germany's constantly growing industrial progress." Dr. Spieckler says: "We have secured higher efficiency in our industries due to the increased worker's efficiency all brought about by relieving our workers from worry and distress" for the future.

Under this plan for increasing the efficiency of their laborers Germany has advanced from fourth to second place in the world's trade; the property of her people has doubled in value; there are 18,000,000 savings banks accounts; wages have risen on the average for unskilled workmen about twenty-five per cent. for skilled workmen about fifty per cent. and in certain trades even one hundred per cent.; there are fewer unemployed in Germany than in any other nation in the world; the death rate has considerably diminished; the length of life has risen from 38.1 years to 48.8 years. Germany is satisfied with the plan we propose.

These facts impressed England so strongly that the Trades Congress of Great Britain sent a commission to study the German situation. This commission officially reported back that there were literally no slums in Germany. Then England adopted a compulsory old-age insurance system. The law went in to effect on July 13, 1912. England's method of administration is simple

and efficient. Each laborer is given an insurance card; at the end of the week he carries this card to his employer who affixes to it an 8 cent insurance stamp; the laborer then carries this card to the postoffice, gets his credit, and the postmaster forwards the card to the Central Bureau.

England, after studying and experimenting with every known system for relieving old-age poverty, at last adopted the plan of compulsory old-age insurance which we of the affirmative offer to-night. The Liberal party in England passed their compulsory old-age insurance law; the conservative party no longer declares against it; the Labor party through its leader, Mr. Ramsey MacDonald, has officially declared in favor of it. England is satisfied with the plan we propose.

France began experimenting in 1850, and by 1910 reached the goal at which all nations ultimately arrive—Compulsory Old-Age Insurance. All whose incomes are \$600 a year or less are required to insure, the government paying a liberal part of the cost. The French system has one especially noteworthy provision for encouraging thrift. The laborer may contribute a larger premium than is required, and so by his own foresight and saving provide for himself a larger annuity on reaching the pension period. France is satisfied with the plan we propose.

Without going into the detailed system of other countries, it is sufficient to say that the experts of all European nations assembled at Rome in 1908 and again at The Hague in 1910, and both conferences declared of-



ficially that compulsory insurance was the best and most efficient means of solving the problem of old-age dependency.

Germany says compulsory old-age insurance is a good thing; our opponents tell Germany that she is mistaken, that the system is bad. Denmark says compulsory old-age insurance is good; our opponents say it is bad. France says old-age insurance is good; our opponents still insist it is bad. England affirms that compulsory old-age insurance is good; our opponents—waxed mighty in stature and wisdom—deny it. The experts of all of the nations in Europe in conference twice declare that the combined experience of their nations has shown that compulsory old-age insurance is the best solution of the problem.

Our opponents can escape this overwhelming testimony only by saying that their theories overturn all of the facts of Europe; that in the interpretation of these facts they themselves are wiser than the World's congress of experts! That would be mighty hard on these experts, but I guess they could stand it.

Our affirmative case rests upon this rock: I have shown that every other plan that has ever been tried has failed; the nations one by one have abandoned them to take up our plan; our system has never failed anywhere; no nation having ever adopted old-age insurance has ever abandoned the policy, but on the other hand each has constantly extended the scope of its operations; my colleague has shown that our plan can be adopted in the United States and will care for old-age dependents with-

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out adding one penny to the annual \$220,000,000 we are at present spending ineffectively for the purpose, because our plan will substitute a system for present unorganized wastefulness.

Every other plan has failed; our plan has always succeeded; hence our opponents are driven either to accept our proposed compulsory old-age insurance or to defend the barbaric policy of making no provision whatever for old-age poverty. Dr. Reinhart, a missionary, discovered one wild heathen tribe in the far interior of Thibet whose custom it was to drive their useless aged from the tents to the wilderness to starve. Are the gentlemen on the negative willing to say that society in America should be allowed to cast off its aged poor to starve?

Honorable Judges, upon this Gibraltar we rest our case: every other plan has failed; our plan of Compulsory Old-Age Insurance has always succeeded, and it can be adopted in this country with no additional cost.

### *UNIVERSITY OF MISSOURI vs. UNIVERSITY OF TEXAS*

FIRST NEGATIVE, GEORGE M. DUPREE, UNIVERSITY OF TEXAS

Mr. Chairman, Ladies and Gentlemen: A system of compulsory old-age insurance, administered by a host of federal officials, reaching out over forty-eight states of diverse interests and different economic conditions, involving the incomes of twenty-five million laborers, in order that a few thousand workmen may become so-

called financially independent—this is the proposition which the affirmative is called upon to support. It must be understood in the beginning, that the question is not whether this old-age insurance is better than our present conditions, but whether or not such a system recommends itself to the American people as a fixed governmental policy. Do you know, gentlemen, that in Germany under compulsory old-age insurance, pauperism is actually increasing, while in this country, according to government statistics, pauperism is decreasing? Do you know that the countries adopting old-age insurance have made it a mere incident of unemployment, accident, invalidity and other phases of insurance? Do you know that every nation administering forms of old-age relief has adopted that policy? We of the negative oppose the adoption of such a measure for the following reasons:

First: The conditions of our society are not such as to warrant the adoption of the proposed plan.

Second: A system of compulsory old-age insurance administered by the federal government is inexpedient.

Third: A system of compulsory old-age insurance administered by the federal government is impracticable, and,

Fourth: A consideration of the evils that would arise from the administration of such a system does not recommend its adoption as a desirable remedial measure.

It is my purpose to show that this system is unnecessary and inexpedient. My colleague will show that such a system is impracticable and undesirable.

The supporters of compulsory old-age insurance must show that the conditions are such as to warrant the adoption of this system in the United States. They must show that the proposed plan is in conformity with American customs and ideas, and that such a measure, considering the social forces now at work, will solve the problem of old-age dependency in an expedient, desirable and practicable manner. We wish to provide for such dependents, but it does not necessarily follow that we should adopt the plan proposed by the opposition. Let us investigate the necessity for adopting any such plan.

The American laborer is not to be compared with those of other nations. He has a social standing, a force of organization behind him, and the individual influence of social welfare of which no other nation can boast. Our dependent workmen are now cared for by mediums of support based upon our peculiar economic conditions and American means of relief,—mediums direct in their nature, relieving the individual laborer according to local conditions.

An organization characteristic of our American methods is the United Charities. This agency, though still in its infancy, is the real basis for the solving of our poverty problem without resort to a plan not in conformity to our American ideas and customs,—a medium having for its aim the better conditions of the poor and for its basis the solving of social diseases by trained students of such conditions. Whatever its faults may be, there will be remedies in the future, for the American laborer is vitally interested in this question. The

purpose of the American mediums is to allow individual responsibility, to furnish the motive for encouraging the laborer to provide for his future welfare, and when he fails, to extend to him the needed aid.

But aside from the gigantic social forces which, when established, will alleviate our old-age problem in accordance with our local conditions and industries, there are certain fundamental objections to the expediency of the proposed measure. The opposition wish to impose this federal system without regard to our diverse interests and different economic conditions. France, Denmark, Australia, England and other nations have adopted forms of old-age insurance, but did they adopt the insurance policy which Germany administers? No, they have adopted policies peculiar to their own economic conditions and industrial labor. Germany, a manufacturing nation, adopted her insurance to meet the needs of such a class of workmen. Denmark, a dairying center, has conformed her insurance to meet the needs of this class; Australia, an agricultural country, has adopted a system to provide for this principal class of laborers; England, a manufacturing and commercial nation, has provided a medium to meet the needs of that larger class of workmen. Those nations with mining as a principal industry must conform their insurance to meet that particular class of employees. Texas represents a greater diversity of interests and conditions than all Germany. New Jersey is closely allied to Denmark in the conditions of its labor problem; Kentucky (or any of our agricultural and stock-raising states) presents economic conditions of

labor much resembling those of Australia; the New England States present the manufacturing and commercial interests that are to be found in Great Britain. Yet the opposition propose a federal system operating uniformly in the agricultural, manufacturing, the dairying and the mining sections of the United States! They suggest a scheme which proposes to unite the labor conditions of Germany, Denmark, Australia and England—all of which exist in the United States—under one iron-clad system of insurance, while each of these countries has found it expedient to adopt that insurance policy best suited to their labor interests.

But the greatest evils of the federal compulsory old-age insurance system are not that it is unnecessary, nor that it is incapable of adapting itself to varying economic social conditions, but its greatest objection is to be found in the complexity which is inherent in the administration of such a law. Germany, after a practical experiment of twenty-five years under the most favorable conditions, is confronted with these three indictments by Mr. Friedensburg, an organizer of the system, and for years President of the Imperial Commission. He says, first, that the state insurance, specifically designed to replace pauperism and charity is itself merely pauperism under another form; second, that the system has fostered to an incredible extent the German evil of Bureaucratic formation, for, seemingly sound in theory, it has become a burden to the German nation on account of its complex and intricate administrative machinery; and third, that the whole system has become a hot-bed of fraud

and corruption, and, therefore a source of demoralizing influences.

Compare, if you please, the facilities for administering such a law in Germany with the facilities that exist in this country, and you can not help but see that the evils which have developed in that military nation, used to the rule of an iron hand, would be augmented in this country one hundredfold. Consider for a moment the fact of a federal system of compulsory insurance reaching out over forty-eight states of which Texas alone has more varied economic conditions and a wider range of industries and population than the entire German Empire. Consider the vast amount of clerical work required for the weekly assessment scheme; the hoard of collectors, inspectors, committees, bureaus, and courts required for the administration of the plan. Consider the opportunity offered for political pull, for the corruption of officials, and I believe that you will realize the expediency of rejecting such a measure as is proposed. On the dockets of the German courts to-night there are four hundred thousand insurance cases demanding adjudication, and although the assessments against the employers have constantly increased, the cry of the masses on the one hand is still heard that "Capital is the oppressor of labor. We demand a fair division of the profits of industry." On the other hand, we hear the quiet, warning voice of the student of political economy, and the admonition of the patriot, that "the moral fiber of the people is weakening, and the spirit of class hatred is becoming more intense." So great has become

the complexity of the German system, so numerous the evils arising under the administration of the law, that students have been led to characterize this scheme as "the cancer which is destroying the vitals of our country."

Now, ladies and gentlemen, if there exists in the United States to-day these great remedial agencies to which your attention has been directed, and which promise to effect a desirable solution of this problem in the future, in conformity with American methods and customs, then the plan of the affirmative is wholly unnecessary. That the plan of a compulsory old-age insurance system in this country is inexpedient may readily be seen when one takes into consideration our diverse interests and varied economic conditions, our different standards of living and wages paid to American laborers, and finally, the plan is inexpedient because of its complexity of administration and its effect upon individual character. If my colleague can show that it is both impracticable in administration and undesirable in its effects upon the individual and upon our citizenship in general, then we ask you to reject a system which is not only incompatible with our varied economic conditions, but foreign to the social tendencies of our country, to the characteristics of our citizenship, and to the policies of our government.

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SECOND NEGATIVE, CHARLES I. FRANCIS, UNIVERSITY OF  
TEXAS

Mr. Chairman, Ladies and Gentlemen: My colleague has shown that the adoption of a compulsory old-age insurance law by the federal government is unnecessary and inexpedient; unnecessary, in that there are now at work on the problem certain gigantic forces which will in the end effect a desirable solution; inexpedient, in that our varied economic resources and peculiar federal form of government preclude an effective administration of the system. He has pointed out that the inherent complexity of the proposed measure will destroy whatever benefits might theoretically be expected to result from the adoption of the plan; and he has shown that a compulsory insurance law is unsuited to the individualistic sentiments and ideals of the American people.

The opposition in their constructive argument have said that old-age poverty is due fundamentally to our unfair industrial system, together with the naturally improvident character of the average workman, and that the only way that this condition can be remedied is through the agency of a compulsory old-age insurance law. Gentlemen, we are constrained to take issue with the affirmative in the very premise upon which their entire argument is founded. If the average workman is improvident of the future, can compulsion remedy this defect of character? Just as the muscles of the body are not strengthened but rather weakened by inactivity and idleness, so are self-reliance and independence taught only

by the exercise of these qualities. We are, therefore, unable to discern how governmental paternalism can ever instill these qualities into the American laborer, of the lack of which the affirmative complain. Nor can we understand how in the face of modern investigation and research, the opposition can contend that poverty is due to the unfairness of our economic system. We contend that it is due primarily to social and not to economic causes. To illustrate my meaning: Prof. Devine of Columbia University says, "We have too long been paying for the effects of our social diseases without trying to remedy their causes, and the social conditions of the American people demand that we must remedy these causes instead of year by year paying for our industrial defects." Germany has instituted an old-age insurance plan, and yet according to the statement of Dr. Friedensburg, former President of the Imperial Insurance Commission, and according to Henry W. Farnum and Dr. Emil Munsterburg, leading European authorities, poverty has increased at a remarkable rate since the inauguration of the plan. Our own country has had no such federal insurance plan, yet according to our census reports, poverty decreased, during the period from 1890 to 1903, 15.1 persons for every 100,000, and during the period from 1903 to 1910 it decreased to 8.8 persons per 100,000; during the past thirty-three years it has decreased 30.6 persons per 100,000 of population; an increase in poverty under a compulsory insurance system in Germany and a decrease in poverty in this country where no such system exists. Germany has tried to solve

the problem by a spurious law of compulsory insurance; it has pursued the policy of paying year by year for its industrial defects. Our country has in a small way pursued the policy of removing the causes which give rise to poverty. The German plan has failed. Our own plan has succeeded in a measure. Then which, ladies and gentlemen, should be the future policy of our country? Furthermore, according to the statement of Dr. Friedensburg and Herr Zahns, Germany expends more to-day in proportion to its population on charity and outdoor relief than it did before the inauguration of the Federal Insurance System. Herr Zahns, a leading German authority formerly connected with the administration of the insurance law, after a research covering the years 1909-1910, has published the following statement: "In reality the poor expenditure both as regards the number of beneficiaries and as regards the number of individual allowances, has almost everywhere increased." Dr. Friedensburg further says: "As to the promise to kill pauperism, it is remarkable how little of that promise is heard to-day." Germany thus bears a double burden—the burden of charity, administered by poor relief societies and charitable organizations, and the burden of federal insurance, paid in a large part by the laboring classes who are least able to bear the burden. In this country, we have but one burden—the burden of charity—which is paid by that portion of society which is financially able to make such a contribution. Year by year, according to the United States census reports, this burden of our country is decreasing, while both the

burden of insurance and the burden of charity are increasing in the German Empire.

Modern society is confronted with the great problem of the social evil. Shall we allow the conditions producing this evil to continue, and seek to make amends to the victims by a money payment? Yet, speaking comparatively, this is what the opposition proposes; this is what the above statistics show that Germany has done,—merely continued that social system which produces the abnormal condition of poverty, and hence has failed to find a remedy for the causes of its social disease. The result has been additional burden of insurance plus the increasing burden of charity.

An analysis of the debate up to this point, shows the following status: The affirmative says (forgetting the experience of Germany), "Our industrial system is wrong; it produces old-age poverty; remedy it by each year paying the price of your negligence and incompetence." The negative says: "Poverty is due primarily to *social conditions*; remedy the evil by eradication of the fundamental causes." The affirmative says: "The American laborer is incompetent and incapable; hence compulsion is necessary." The negative says: "The incompetence and incapacity of the American laborer is not inherent, as the British investigation committee said, but due to disease, lack of education, mental and physical inabilities; and the paths of reform must follow the lines of industrial education; the passage of fundamental social laws for the able, such as Workmen's Compensation, Minimum Wage, and Child Labor Laws; and

finally, scientific and organized charity must provide for that portion of society which has become dependent upon the state."

But passing by the experience of Germany, and disregarding the opinions of our leading economists voiced by the President of Wisconsin University when he said: "Did we but apply the agencies which we have at hand, we would solve within two generations the great social problems that confront our nation," let us presume that the American people desire this compulsory insurance law even though it does not reach the fundamental causes of poverty. What difficulties would we encounter in the practical administration of the law?

Society would be divided into two great classes: those compelled by law to provide for old age through a system of insurance; and those who are exempt from such provision, inasmuch as their wages exceed the minimum required by the government. Statistics will hardly warrant such a division, for proportionately just as many lawyers, just as many ministers, just as many merchants become paupers as industrial laborers. So any system of compulsory insurance must fail in its purpose of preventing old-age pauperism among the uninsured classes, and such classes in this country would amount to more than 65 per cent of the entire population. But the classes subject to such a law—mind you, representing but 35 per cent of our population—may also be divided into two classes: (1) Our industrial classes representing those whose employment is steady and whose incomes are fairly regular, and (2) the great army of the irregu-

larly employed whose wages constantly vary from month to month, such as carpenters, masons, contract workers, agricultural laborers, seamstresses, house-servants, wash-women, and so forth.

The former class, our industrial laborers, according to the United States census, represents 24 per cent of the laboring classes; the latter class, those irregularly employed, represents approximately 76 per cent. In the case of the 24 per cent, a system of compulsory insurance might be administered by compelling the employer to deduct from the salary of the employee the amount of the weekly assessment. But in the case of 76 per cent of the wage-earners, the irregularly employed, no assessment could be made by the stoppage-at-the-source plan, for their wages are uncertain, varying from month to month, and the wage-earner has no certain employer for any considerable length of time. So any system of compulsory insurance must fail in its purpose of preventing old-age pauperism in the great army of the irregularly employed, and it is from the latter class, as Frederick I. Hoffman says, "that the majority of old-age dependent paupers come." Now, of this industrial class representing but 24 per cent of our wage-earners (not of our population, mind you), what proportion will ever reap the benefit of an insurance policy? Reliable statistics, found in the 1910 census reports, shows that only one man out of every twenty-five reaches the age of 65 years, the lowest age at which a paid-up policy could possibly be granted. Then of the 24 per cent of the laboring class, who have a potential possibility of receiving a paid-up

policy, only one out of every twenty-five will reach the minimum age limit. The other twenty-four will pay for the one, and will realize no benefit whatever from the thousands of assessments which they have been forced to pay to the federal government. Gentlemen of the affirmative, is this the equitable system for which you plead? Do you mean to say that you will attempt to assess the salaries of twenty-five million laborers for the benefit of such a small per cent of our population? When of this small per cent three out of every four are independent of all forms of charity? You propose to institute a gigantic system of insurance in order to remedy old-age poverty, when such a system could not possibly benefit more than one-half of 1 per cent of our population. Then it is unreasonable to suppose that the system will succeed in its primary purpose.

To summarize my second point: Our government under the proposed plan will purpose to reach but 35 per cent of our population, the other 65 per cent being exempt; of this 35 per cent only the industrial class, amounting to but 24 per cent of the wage-earners, can be reached, as the other 76 per cent are irregularly employed; of the 24 per cent only one out of every twenty-five will ever receive any return on his investment, and to those whom aid is given, a large majority will have no need for such aid. We contend that the results do not justify the means.

My colleague has discussed the great complexity attendant upon the administration of a Federal Insurance System; in Germany so complex and intricate has it be-

come that practically every benefit expected by its supporters has failed to materialize. Join to the inherent complexity of the scheme the fact that it fails to reach the fundamental causes of poverty, and benefits only such a small per cent of our population, and it will readily be seen that the system is impracticable in administration.

In 1884 Bismarck, Chancellor of the German Empire, when asked his reason for proposing and supporting a social insurance policy, said: "Because it will be an inoculation against socialism, the power of which, although detrimental to the empire, is steadily increasing." When Bismarck made that statement the influence of the Social Democrats in governmental affairs was practically negligible; in 1872 they cast a vote of 125,000. In the election of 1912 their candidates received a plurality of 3,000,000 votes, the Socialist vote amounting to 7,500,000 out of a total vote of approximately 12,000,000. The platform of the party is "the destruction of capitalism, and the inauguration of a state monopoly of the production and distribution of goods."

Social insurance but added fuel to the flames of Socialistic ideas; the lines of class cleavage have become clearly more marked; and the people clamor for a greater degree of protection from the state. Politically America knows no servile class; if it is ever created through a system of compulsory insurance, we shall have no Bundesrath as in Germany, to defeat the will of the popular assembly. To illustrate: To-day in the United States no political party dares to favor a reduction of the pen-



sion system, and as a consequence, though fifty years removed from any serious war, we have a pension list the largest in the history of our country, and constantly increasing through popular demand. Just so under an insurance system, in order to curry popular favor, our parties would be forced to favor an increase in the assessments against employers, a lowering of the age limit, and more extended privileges to the masses. We of the negative hesitate to favor the adoption of a system which experience shows will become entangled in politics, where fraud and corruption will creep in, and by which the demagogues may appeal to the feelings and interests of the insured.

Whereas my colleague has shown that the proposed measure is unnecessary and inexpedient, that it is inherently complex and incompatible with American sentiments, institutions and ideals, it has been my purpose to prove that the law does not reach the fundamental causes of poverty; that whatever benefits might theoretically be expected from the system, the practical results do not justify the measure in that such a few would reap the benefit of the law, for it does not include within its scope the welfare of the uninsured classes, amounting to 65 per cent of our population; it does not include the great army of the irregularly unemployed, amounting to 76 per cent of the wage-earners, and it will be of no benefit to those who do not attain the minimum age limit; joined to these defects is the fact that complexity arising from the administration of the law would be seriously detrimental to, and perhaps destructive of, the efficiency of

the scheme; that the system would become entangled in political alliances, would encourage class hatred, and foster the tenets of Socialism. For these reasons we ask the rejection of a compulsory system of old-age insurance administered uniformly by the federal government.

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## **APPENDICES**

**Containing a List of Debating Organizations, a Debate Record  
for the School Year 1912-13 Arranged Alphabetically by  
States, a Table of Debating Statistics, and Speci-  
men Debate Contracts and Agreements.**



# APPENDIX I.

## CLASSIFIED LIST OF DEBATING ORGANIZATIONS

### PENTANGULARS

Universities of Arkansas, Louisiana, Mississippi, Tennessee, and Texas.

Universities of Georgia, North Carolina, Virginia, and Vanderbilt and Tulane. Organization disbanded 1912-13.

Universities of Illinois, Iowa, Minnesota, Nebraska, and Wisconsin. Called "The Central Debating Circuit."

### QUADRANGULARS

**Pennsylvania.** Dickinson College, Carlisle, Franklin and Marshall College, Lancaster, Pennsylvania State College, State College, and Swarthmore College, Swarthmore. This league debates in cycles of three years, each college meeting each of the other colleges twice in that time, making in all six debates for each school. Each college debates twice each year, putting out an affirmative and a negative team. All debates each year are held on the same evening. A cycle of three years has just been completed with the following results:

	Won	Lost
Dickinson College .....	4	2
Franklin and Marshall .....	3	3
Swarthmore .....	3	3
State College .....	2	4

Dickinson College was awarded the trophy, a cup, for the first cycle.

### TRIANGULARS

**Alabama.** Talladega College, Talladega; with Atlanta Baptist College, Atlanta, and Knoxville College, Knoxville, Tenn.



- California.** 1. Pacific Coast Debating League. Leland Stanford, Palo Alto; with Universities of Oregon and Washington at Eugene and Seattle.
2. League of Southern California colleges. Occidental College, Los Angeles, Pomona College, Claremont, and University of Southern California, Los Angeles.
- Colorado.** 1. University of Colorado, Boulder; with University of Kansas, Lawrence, Kansas, and University of Oklahoma, Norman, Okla.
2. University of Colorado; with University of Missouri, Columbia, Mo., and University of Texas, Austin, Texas.
3. Colorado Agricultural College, Ft. Collins; with Kansas Agricultural College, Manhattan, and Oklahoma Agricultural and Mechanical College, Stillwater, Okla.
- Connecticut.** 1. Wesleyan University, Middletown; with Amherst College, Amherst, Mass., and Williams College, Williamstown, Mass.
2. Wesleyan College, Middletown; with Bowdoin College, Brunswick, Me., and Hamilton College, Clinton, N. Y.
3. Yale University, New Haven; with Harvard University, Cambridge, Mass., and Princeton University, Princeton, N. J.
4. Yale University Freshman: Harvard University and Princeton University.
- Georgia.** 1. Atlanta Baptist College, Atlanta; with Talladega College, Talladega, Ala., and Knoxville College, Knoxville, Tenn.
2. University of Georgia, Athens; with Tulane University, New Orleans, La., and Washington and Lee College, Lexington, Va.
- Illinois.** 1. Augustana College, Rock Island; with Northwestern College, Naperville, Ill., and Carroll College, Waukesha, Wis.
2. Eureka College, Eureka; with Illinois Wesleyan, Bloomington, and Milliken University, Decatur, Ill.
3. Illinois State Normal, Normal; with Indiana State Normal, Terre Haute, and Oshkosh Normal, Oshkosh, Wis.
4. Knox College, Galesburg; with Beloit College, Beloit, Wis., and Cornell College, Mt. Vernon, Ia.

5. Northwestern University, Evanston: with Chicago University and Michigan University, Ann Arbor.
  6. University of Illinois, Urbana; with Indiana and Ohio Universities at Bloomington and Columbus respectively.
- Indiana.** 1. University of Indiana, Bloomington: with Universities of Illinois and Ohio at Urbana and Columbus respectively.
2. Indiana University, Bloomington; with University of Notre Dame, Notre Dame, Ind., and Wabash College, Crawfordsville, Ind.
  3. Indiana State Normal, Terre Haute; with Illinois State Normal, Normal, and Oshkosh Normal, Oshkosh, Wis.
- Iowa.** 1. Buena Vista College, Storm Lake; with Highland Park College, Des Moines, Ia., and Lenox College, Hopkinton, Ia.
2. Central University, Pella; with Highland Park College, Des Moines, Ia., and Des Moines Baptist College, Des Moines.
  3. Coe College, Cedar Rapids: with Morningside College, Sioux City, Ia., and Teachers' College, Cedar Falls, Ia.
  4. Cornell College, Mt. Vernon; with Knox College, Galesburg; Ill., and Beloit College, Beloit, Wis.
  5. Drake University, Des Moines; with Grinnell College, Grinnell, Ia., and Iowa State College, Ames.
  6. Leander Clark College, Toledo; with Parsons College, Fairfield, Ia., and Penn College, Oskaloosa, Ia.
- Kansas.** 1. Baker University, Baldwin; with Washburn College, Topeka, Kans., and Nebraska Wesleyan College, University Place, Nebr.
2. College of Emporia, Emporia; with Ottawa University, Ottawa, Kans., and Southwestern University, Winfield, Kans.
  3. Kansas State Agricultural College, Manhattan; with Colorado Agricultural College, Ft. Collins, and Oklahoma Agricultural and Mechanical College, Stillwater, Okla.
  4. University of Kansas, Lawrence; with Universities of Colorado and Oklahoma at Boulder, and Norman respectively.
- Louisiana.** 1. Tulane University, New Orleans; with University of Georgia, Athens, and Washington and Lee College, Lexington, Va.

**Maine.** 1. Bowdoin College, Brunswick; with Wesleyan University, Middletown, Conn., and Hamilton College, Clinton, N. Y.

**Maryland.** 1. Johns Hopkins University, Baltimore; with Universities of North Carolina and Virginia at Chapel Hill and Charlottesville respectively.

**Massachusetts.** 1. Amherst College, Amherst; with Wesleyan University, Middletown, Conn., and Williams College, Williamstown, Mass.

2. Harvard University, Cambridge; with Princeton University, Princeton, N. J., and Yale University, New Haven, Conn.

3. Harvard Freshmen, Cambridge; with Princeton Freshmen, Princeton, N. J., and Yale Freshmen, New Haven, Conn.

4. Williams College, Williamstown; with Brown University, Providence, R. I., and Dartmouth College, Hanover, N. Hamp.

**Michigan.** 1. Alma College, Alma; with Hope College, Holland, Mich., and Olivet College, Olivet, Mich.

2. Alma College, Alma; with Michigan Agricultural College, East Lansing, and Ypsilanti Normal, Ypsilanti, Mich.

3. University of Michigan, Ann Arbor; with Northwestern University, Evanston, Ill., and Chicago University, Chicago, Ill.

**Minnesota.** 1. Carleton College, Northfield; with Ripon College, Ripon, Wis., and South Dakota Wesleyan, Mitchell.

2. Hamline University, St. Paul; with Macalester College, St. Paul, Minn., and St. Olaf College, Northfield, Minn.

**Missouri.** 1. Central College, Fayette; with Missouri Valley College, Marshall, Mo., and Westminster College, Fulton, Mo.

2. University of Missouri, Columbia; with Universities of Colorado and Texas at Boulder and Austin respectively.

**Nebraska.** 1. Cotner College, Bethany; with Bellevue College, Bellevue, Nebr., and Doane College, Crete, Nebr.

2. Kearney State Normal, Kearney; with Peru and Wayne State Normals at Peru and Wayne, Nebr. respectively.

3. Nebraska Wesleyan, University Place; with Washburn College, Topeka, Kans., and Baker University, Baldwin, Kansas.

**New Hampshire.** 1. Dartmouth College, Hanover; with Brown University, Providence, R. I., and Williams College, Williamstown, Mass.

**New Jersey.** 1. Princeton University, Princeton; with Harvard University, Cambridge, Mass., and Yale University, New Haven, Conn.

2. Princeton Freshmen, Princeton; with Harvard and Yale Freshmen.

3. Rutgers College, New Brunswick; with Lafayette College, Easton, Pa., and Swarthmore College, Swarthmore, Pa.

**New York.** 1. Colgate University, Hamilton; with Hamilton College, Clinton, N. Y., and Union College, Schenectady, N. Y.

2. Columbia University, New York City; with Cornell University, Ithaca, N. Y., and University of Pennsylvania, Philadelphia.

**North Carolina.** 1. University of N. Carolina, Chapel Hill; with Johns Hopkins University, Baltimore, Md., and University of Virginia, Charlottesville, Va.

**North Dakota.** 1. Fargo College, Fargo; with University of N. Dakota, Grand Forks, and University of Manitoba, Canada.

**Ohio.** 1. Denison University, Granville; with Ohio University, Athens, and Miami University, Oxford, Ohio.

2. Heidelberg University, Tiffin; with Otterbein University, Westerville, Ohio, and Mt. Union College, Alliance, Ohio.

3. Mt. Union College, Alliance; with Muskingum College, New Concord, Ohio, and Geneva College, Beaver Falls, Pa.

4. Muskingum College, New Concord; with Otterbein University, Westerville, Ohio, and Wittenberg University, Springfield, Ohio.

5. Oberlin College, Oberlin; with Ohio Wesleyan University, Delaware, and Western Reserve University, Cleveland, Ohio. This organization is the first and the oldest triangular arrangement.

6. Wooster, University of, Wooster; with Allegheny College, Meadville, Pa., and University of Pittsburg, Pittsburg, Pa.

**Oklahoma.** 1. Oklahoma Agricultural and Mechanical College,

Stillwater; with Colorado Agricultural College, Ft. Collins, and Kansas Agricultural College, Manhattan, Kans.

2. University of Oklahoma, Norman; with Colorado University, Boulder, and Kansas University, Lawrence.

**Oregon.** 1. Albany College, Albany; with McMinneville College, McMinneville, Ore., and Pacific College, Newberg, Ore.

2. University of Oregon, Eugene; with Leland Stanford University, Palo Alto, Calif., and Washington University, Seattle.

**Pennsylvania.** 1. Allegheny College, Meadville; with University of Pittsburg, Pittsburg, Pa., and University of Wooster, Wooster, Ohio.

2. Geneva College, Beaver Falls; with Muskingum College, New Concord, Ohio, and Mt. Union College, Alliance, Ohio.

3. Lafayette College, Easton; with Rutgers College, New Brunswick, N. J., and Swarthmore College, Swarthmore, Pa.

4. University of Pennsylvania, Philadelphia; with Columbia University, New York City, and Cornell University, Ithaca, N. Y.

**Rhode Island.** 1. Brown University, Providence; with Williams College, Williamstown, Mass., and Dartmouth College, Hanover, N. Hamp.

**South Dakota.** 1. Dakota Wesleyan University, Mitchell; with Carleton College, Northfield, Minn., and Ripon College, Ripon, Wis.

**Tennessee.** 1. Knoxville College, Knoxville; with Talledega College, Talladega, Ala., and Atlanta Baptist College, Atlanta, Ga.

**Texas.** 1. Southwestern University, Georgetown; with Texas Christian University, Ft. Worth, and Trinity College, Waxahachie, Texas.

2. University of Texas, Austin; with Universities of Colorado and Missouri at Boulder and Columbia respectively.

**Virginia.** 1. Randolph-Macon College, Ashland; with Richmond College, Richmond, Va., and William and Mary College, Williamsburg, Va.

2. University of Virginia, Charlottesville; with Johns Hopkins University, Baltimore, Md., and University of N. Carolina, Chapel Hill.

3. Washington and Lee University, Lexington; with University of Georgia, Athens, and Tulane University, New Orleans, La.

**Washington.** 1. University of Washington, Seattle; with Leland Stanford University, Palo Alto, Calif., and University of Oregon, Eugene.

2. University of Washington, Seattle; with Washington State College, Pullman, and Whitman College, Walla Walla, Wash.

**Wisconsin.** 1. Beloit College, Beloit; with Knox College, Galesburg, Ill., and Cornell College, Mt. Vernon, Ia.

2. Beloit College Freshmen, Beloit; with Ripon College Freshmen, Ripon, Wis., and Lawrence College Freshmen, Appleton, Wis.

3. Carroll College, Waukesha; with Augustana College, Rock Island, Ill., and Northwestern College, Naperville, Ill.

4. Oshkosh Normal, Oshkosh; with Indiana and Illinois state normals at Terre Haute and Normal respectively.

5. Ripon College, Ripon; with Carleton College, Northfield, Minn., and S. Dakota Wesleyan, Mitchell, S. Dak.

## DUAL DEBATES

**California.** 1. University of Redlands, Redlands, and Whittier College, Whittier, Calif.

2. University of Southern California, Los Angeles, and Drake University, Des Moines, Ia.

**Connecticut.** 1. Yale University, New Haven, and Syracuse University, Syracuse, N. Y.

**Idaho.** University of Idaho, Moscow, and Williamette University, Salem, Ore.

**Indiana.** DePauw University, Greencastle; with Indiana University, Bloomington.

**Iowa.** Drake University, Des Moines, and University of Southern California, Los Angeles.

2. Iowa State College, Ames, and Iowa State Teachers' College, Cedar Falls.

**Kansas.** Fairmont College, Wichita, and Kansas Agricultural College, Manhattan.

2. Friends University, Wichita, and McPherson College, McPherson, Kansas.

**New York.** Syracuse University, Syracuse, and Yale University, New Haven, Conn.

**Ohio.** Ohio Wesleyan University, Delaware, and University of Cincinnati, Cincinnati, Ohio.

**Oregon.** Willamette College, Salem, and University of Idaho, Moscow.

**Pennsylvania.** Bucknell University, Lewisburg, and Pennsylvania College, Gettysburg.

**South Dakota.** Huron College, Huron, and South Dakota State College, Brookings.

**Tennessee.** Carson and Newman College, Jefferson City, with Maryville College, Maryville, Tenn.

**West Virginia.** West Virginia Wesleyan, Buckhannon, and Marietta College, Marietta, Ohio.

## APPENDIX II.

**List of Colleges and Universities Engaging in Forensic Contests During the School Year, 1912-13, with Names of Coaches, Managers of Debate, and Statement of Questions, Record of Decisions, etc., Arranged Alphabetically by States.**

### ALABAMA

**Talledega College.** Talladega. Congregational. Wm. Pickens, Coach and Manager. Debaters chosen in Primary.

**Triangular**—Atlanta Baptist College, Atlanta, Ga., and Knoxville College, Knoxville, Tenn. Two men teams. Question—Resolved, that the President of the United States should be elected for a term of six years and should be ineligible for re-election. Decisions—At Talladega, Atlanta Baptist Negative won 3 to 0 from Talladega. At Atlanta, Knoxville Negative won from Atlanta Baptist 3 to 0. At Knoxville, Talladega Negative won from Knoxville 2 to 1.

**University of Alabama.** Tuscaloosa. Non-sectarian. Frederick D. Losey, Rhetoric and Public Speaking Coach. Debate Council manages. Debaters chosen in Primary.

**Annual Debate**—University of the South, Sewanee, Tenn. Two men teams. Question—Resolved that labor Unions are inimical to the industrial welfare of this country. Place—Sewanee. Decision—Alabama Affirmative 3 to 0.

**Annual Debate**—Vanderbilt University, Nashville, Tenn. Two men teams. Question—As above. Place—University of Alabama, Tuscaloosa. Decision—Alabama Affirmative won 2 to 1.

### ARKANSAS

**Ouachita College.** Arkadelphia. Baptist. No report 1913.

**Annual Debate**—Baylor University, Waco, Texas. (See Baylor, Texas.)



**University of Arkansas.** Fayette. Non-Sectarian. No report 1913.

**Pentangular—Universities of Louisiana, Mississippi, Tennessee, and Texas.** Arkansas met Louisiana and Tennessee. Two men teams. Date—April 11, 1913. Question—Resolved, that the plan for a national reserve association as proposed by the United States Monetary Commission offers a desirable remedy for the defects in our banking and currency systems. Decisions—At Fayette, Arkansas Affirmative won from Tennessee 2 to 1. At Baton Rouge, Louisiana Affirmative won from Arkansas 2 to 1.

### CALIFORNIA

**Leland Stanford University.** Palo Alto. Non-Sectarian. No Coach. No report 1913. (See University of California, and Universities of Oregon and Washington.)

**Occidental College.** Los Angeles. Non-Sectarian. Prof. J. P. Odell and Asst. Prof. A. G. Paul, Coaches. John T. Bickford, Mgr. 1913. M. B. Hanna, 1913-14. Primary system.

**Annual Debate—University of Redlands, Redlands, Calif.** Date—Dec. 6, 1912. Place—Occidental College. Question—Resolved, that Congress was justified in passing the toll clause of the Panama Canal Bill. Two men teams. Decision—Occidental Affirmative 3 to 0.

**Triangular—Pomona College and University of Southern California.** Three men teams. Date—March 1, 1913. Question Resolved, that California should adopt an income tax, embodying the Wisconsin plan of graduation, exemption and collection. Decisions—At Occidental, Affirmative won 2 to 1 from Pomona; at University of Southern California—Affirmative won from Occidental Negative 3 to 0; at Pomona—Affirmative won from U. S. C. Negative 2 to 1.

**Pomona College.** Claremont. Non-Sectarian. Harold R. Bruce, Coach. Paul S. Davies, Mgr. 1913. Carl S. Wheat, Mgr. 1913-14. Debaters chosen by coach and primary system.

**Triangular—Occidental College and University of Southern California.** (See Occidental College above.)

**University of California.** Berkeley. Non-Sectarian. Prof. M.

C. Flaherty, Coach. Chairman, Debate Council, manages. Primary system.

**Annual Debate**—Leland Stanford University, Palo Alto. Date—Nov. 1, 1912. Place—Berkeley. Three men teams. Question—Resolved, that the State of California should establish a series of endowed, non-partisan, general newspapers. Decision—Stanford Negative 3 to 0.

**Carnot Medal Debate**—An intercollegiate contest between debaters from Leland Stanford and the University of California in which the debating must be extemporaneous. One of the three men from each university must choose the side of the question opposing his two colleagues, or in other words he must work with the two men from the rival school. The Baron de Coubertin gives a medal to the "best debater." Date—April 11, 1913. Place—Palo Alto. Question—Resolved, that a greater degree of decentralization would make for the permanency of republicanism in France. Decision—Won by J. J. Miller, University of Calif. The debaters were: Affirmative, Drury, Calif., Higgins, Stanford, and Tincher, Stanford. Negative, Miller, Calif., Goodman, Calif., and Smith, Stanford.

**University of Redlands.** Redlands. Baptist. No coach 1912. Newell D. Spayth, Mgr. 1912-14. Primary system.

**Annual Debate**—Occidental College. See above.

**Dual Debate**—Whittier College, Whittier. Two men teams. Date—April 25, 1913. Question—Resolved, that the United States Government should own and operate all the coal mines in the United States and its possessions now owned by private parties. Decisions—At Redlands, Whittier Negative 2 to 1. At Whittier, Redlands Negative 2 to 1.

**University of Southern California.** Los Angeles. Methodist Episcopal. A. W. Ohmstead, Coach. H. N. Wells, Mgr. 1912-14. Primary system.

**Triangular**—Occidental College and Pomona College. See Occidental above.

**Annual Debate**—Northwestern College of Law. (Law school of U. S. C.) Two men teams. Date—April 9, 1913. Place—Los Angeles. Question—Resolved, that the Federal Bank-

ruptcy law should be repealed. Decision—U. S. C. Negative 3 to 0.

**Dual Debate**—Drake University, Des Moines, Ia. Two men teams. Date—April 21, 1913. Question—Resolved, that the Sherman Anti-Trust law should be repealed. Decisions—At Los Angeles, U. S. C. Negative 3 to 0. At Des Moines, U. S. C. Affirmative 2 to 1.

**Whittier College.** Whittier. Friends. No report 1913.

**Dual Debate**—University of Redlands, Redlands, Calif. (See above.)

### COLORADO

**Colorado Agricultural College.** Ft. Collins. Non-Sectarian. B. F. Coen, Coach and Manager. Debaters chosen by coach and in primary trials.

**Triangular**—Kansas Agricultural College, Manhattan, and Oklahoma Agricultural and Mechanical College, Stillwater. Two men teams. Date—April 4, 1913. Question—Resolved, that the constitution of the various states of the union should be so amended as to subject the decisions of the state supreme courts, on constitutional questions, to recall by popular vote. Decisions—Ft. Collins, Kansas Negative won on grades, two judges being present, one voting for each side. At Stillwater, Oklahoma Affirmative won 2 to 1. At Manhattan, Kansas Affirmative 3 to 0.

**Colorado College.** Colorado Springs. Non-Sectarian. J. W. Park, Coach. H. W. Barnett, Mgr. 1912. No report 1913. Primary system. (See University of Denver.)

**University of Colorado.** Boulder. Non-Sectarian. John Gutknecht, Coach. 1335 Grandview, Boulder. Primary system.

**Triangular**—Kansas University and Oklahoma University. Three men teams. Date—April 11, 1913. Question—Resolved, that a policy of federal regulation should be substituted for the Sherman Anti-Trust law. Decisions—At Boulder, Colorado Affirmative 3 to 0. At Norman, Okla., Colorado Negative 2 to 1. At Lawrence, Kans., Kansas Affirmative 2 to 1.

**Triangular**—Missouri University and Texas University. Two men teams. Date—April 19, 1913. Question—Resolved, that a system of compulsory old age insurance should be adopted

by the federal government. Stated by Texas—Resolved, that a policy of Old Age insurance should be adopted by our federal government, constitutionality waived. Decisions—At Boulder, Missouri Negative 2 to 1. At Austin, Texas, Colorado Negative 2 to 1. At Columbia, Mo., Texas Negative 3 to 0.

**Annual Debate—University of Utah.** Date—April 20, 1913. Place—Salt Lake City. Question—Resolved, that a system of federal regulation of trusts should be substituted for the policy of dissolution. Decision—Colorado Affirmative 3 to 0.  
**University of Denver.** Denver. Methodist Episcopal. No Coach. R. D. Chittenden, Mgr. 1912-13. Primary system.

**Annual Debate—Colorado College, Colorado Springs.** Three men teams. Date—March 14, 1913. Place—Colorado Springs. Question—Resolved that the National Monetary Commission's plan for currency and banking reform be adopted by the United States. Decision—Colorado College Affirmative 2 to 1.

**Annual Debate—Ottawa University, Ottawa, Kans.** Three men teams. Date—April 16, 1913. Place—Ottawa, Kans. Question—Resolved, that the Recall should apply to the state judiciary. Decision—Ottawa Negative 3 to 0.

**Annual Debate—William Jewell College, Liberty, Mo.** Three men teams. Date—April 18, 1913. Place—Liberty, Mo. Question—Resolved, that the Recall should apply to the state judiciary. Decision—Wm. Jewell Negative 3 to 0.

**Annual Debate—University of Wyoming, Laramie.** Date—May 22, 1913. Place—Denver. Question—Resolved, that American coastwise shipping should be exempt from payment of Panama tolls.

## CONNECTICUT

**Wesleyan University.** Middletown. Non-Sectarian. No coach. D. W. Murphy, Mgr. 1912-13. C. D. Abraham, Mgr. 1913-14. Primary system.

**Triangular—Amherst College, Amherst, Mass., and Williams College, Williamstown, Mass.** Two men teams. Date—December 13, 1913. Question—Recall of Judges. Decisions—At Middletown, Wesleyan Affirmative 3 to 0. At Williams-

town, Williams Affirmative 2 to 1. At Amherst, Amherst Affirmative won from Williams 3 to 0.

**Triangular**—Bowdoin College, Brunswick, Maine, and Hamilton College, Clinton, N. Y. Three men teams. Date—April 10, 1913. Question—Resolved, that a tariff for revenue only would materially lower the present high cost of living. Decisions—At Middletown, Wesleyan Affirmative won from Bowdoin 3 to 0. At Hamilton, Wesleyan Negative lost 2 to 1. At Brunswick, Bowdoin Affirmative won 3 to 0.

**Yale University.** New Haven. Non-Sectarian. J. W. Wetzel, Coach. Hendrie Hall, Yale Univ. Joseph R. Walker, Mgr. 1912-13, 62 Yale Station. L. M. Marks, 1913-14, 440 Yale Station. Primary system.

**Dual Debate**—Syracuse University, Syracuse, N. Y. Three men teams. Date—Dec. 5, 1912. Question—Resolved, that industrial corporations doing interstate business should be regulated by a federal commission with powers similar to those of the Interstate Commerce Commission. Decisions—At New Haven, Yale Affirmative 2 to 1; at Syracuse, 2 to 1 for Syracuse Affirmative.

**Triangular**—Harvard University and Princeton University. Three men teams. Date—March 14, 1913. Question—Resolved, that the United States should exempt the American coastwise trade from Panama Canal tolls. Decisions—At New Haven, Princeton Affirmative 2 to 1. At Cambridge, Harvard Negative won from Yale Affirmative 3 to 0. At Princeton, Harvard Negative 3 to 0.

**Freshmen Triangular**—Harvard Freshmen and Princeton Freshmen. Three men teams. Date—May 2, 1913. Question—Resolved, that cabinet members should be allowed a seat and a voice in Congress. Decisions—At New Haven, Harvard Affirmative won. At Princeton, the Princeton Negative won from Yale. At Cambridge, the Princeton Affirmative won from Harvard.

#### DISTRICT OF COLUMBIA

**Georgetown College, Georgetown University.** Washington. Catholic. Mark J. McNeal, S. J., Coach. David Waldron,

**Mgr. 1912-13.** John G. Carter, Mgr. 1913-14, 1528 16th St.  
Primary system.

**Annual Debate—**Cornell University, Ithaca, N. Y. Three men teams. Date—April 4, 1913. Place—Georgetown College. Question—Resolved, that when an act passed under the police power of a state is held to be unconstitutional under the state constitution by the courts, the people, after an ample interval for deliberation, shall have the opportunity to vote on the question whether they desire the act to become a law notwithstanding such decision. Decision—Georgetown Univ. Negative won 3 to 0.

**Annual Debate—**Between Philodmic Society of Georgetown College and Fulton Debating Society of Boston College. Three men teams. Date—April 13, 1913. Place—Georgetown College. Question—Resolved, that the United States vessels engaged in coastwise trade be free from toll in passing through the Panama Canal. Decision—Boston College won 2 to 1, on Affirmative.

**George Washington University.** Washington. Non-Sectarian. C. W. A. Veditz, Coach. Primary system.

**Annual Debate—**Washington and Lee, Lexington, Va. Three men teams. Date—March, 1913. Place—Washington. Question—Resolved, that an easier and more expeditious method of amending the federal constitution should be adopted. Decision—George Washington Affirmative 2 to 1.

## GEORGIA

**Atlanta Baptist College.** Atlanta. Baptist. Mordecai W. Johnson, Coach. Debaters chosen by coach in primaries.

**Triangular—**Talladega College, Alabama, and Knoxville College, Tenn. Two men teams. Date—April 11, 1913. Question—Resolved, that the president of the United States should be elected for a term of six years and be ineligible for re-election. Decisions—At Atlanta, Knoxville Negative won 3 to 0. At Talladega, Atlanta Baptist won 3 to 0. At Knoxville, Talladega Negative won 2 to 1.

**Atlanta University.** Atlanta. Non-Sectarian. G. A. Towns, Coach. Thomas Henry, Mgr. 1912-13. Eugene Dibble, Mgr. 1913-14. Primary system.

**Annual Debate**—Fisk University, Nashville, Tenn. Two men teams. Date—April 4, 1913. Place—Atlanta. Question—Resolved, that the tariff of the United States should be reduced to a basis of tariff for revenue only. Decision—Fisk Affirmative 2 to 1.

**Emory College.** Oxford. Methodist Episcopal South. Dr. E. H. Johnson, Coach. J. E. Mathews, Mgr. 1912-14. Primary system.

**Annual Debate**—Emory and Henry College, Emory, Va. Two men teams. Date—May 3, 1913. Place—Spartanburg, S. Carolina. Question—Resolved, that as a general policy it would be to the best interest of the nation to preserve the rights and powers of the states. Decision—Emory College, Ga., Affirmative, 3 to 0.

**University of Georgia.** Athens. Non-Sectarian. P. E. Brock, Coach. Governor Snieth, Mgr. 1912-13. Primary system.

**Triangular**—Tulane University, La., and Washington and Lee, Va. Two men teams. Date—May 3, 1913. Question—Resolved, that labor unions are inimical to the industrial welfare of the country. Decisions—At Athens, Georgia Affirmative won 2 to 1 from Washington and Lee. At New Orleans, Tulane Affirmative won 3 to 0 from Georgia. At Lexington, Va. Tulane Negative won 3 to 0.

### IDAHO

**University of Idaho.** Moscow. Non-Sectarian. No report 1913.

**Dual Debate**—Williamette University, Salem, Ore. (See under Oregon.)

### ILLINOIS

**Augustana College.** Rock Island. Lutheran. Prof. E. F. Bartholomew, Eng. Dep't. in charge. Primary system.

**Annual Debate**—Bethany College, Lindsborg, Kansas. Three men teams. Date—May 3, 1913. Place—Rock Island. Question—Resolved, that a uniform system of tolls for the ships of all nations using the Panama Canal should be established. Decision—Bethany College Affirmative 2 to 1.

**Triangular**—Northwestern College, Naperville, Ill. and Carroll

College, Waukesha, Wis. Three men teams. Date—April 18, 1913. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decisions—At Rock Island, Carroll College won on Negative 3 to 0. At Naperville, Northwestern Affirmative won from Augustana 2 to 1. At Waukesha, Carroll College Affirmative won from Northwestern 2 to 1.

**Eureka College.** Eureka. Non-Sectarian. Bernice M. Bradford, Coach and Manager. Primary system.

Triangular—Illinois Wesleyan College, and Milliken University, Decatur. Three men teams. Date—March 27, 1913. Question—Resolved, that judicial decisions should be subject to popular recall. Decisions—At Eureka, Eureka Affirmative won from Milliken 2 to 1. At Bloomington, Illinois Wesleyan Affirmative won from Eureka 2 to 1. At Decatur, Milliken Affirmative won from Wesleyan 2 to 1.

**Illinois State Normal.** Normal. Non-Sectarian. No report 1913.

Triangular—Indiana State Normal, Terre Haute, Ind., and Oshkosh Normal, Oshkosh, Wis. (See Indiana State Normal.)

**Illinois Wesleyan.** Bloomington. Methodist Episcopal. P. C. Somerville, Coach and Manager. Primary system.

Triangular—Eureka College, and Milliken University. (See Eureka immediately above.)

**James Milliken University.** Decatur. Presbyterian. No report 1913. (See Eureka College above.)

**Knox College.** Galesburg. Non-Sectarian. Dwight E. Watkins, Prof. of Public Speaking in charge. Louis Eich, Inst. Public Speaking in charge 1912-13. Gerald Norman, Mgr. 1912-13. Debaters chosen in Literary Societies.

Triangular—Beloit College, Wis., and Cornell College, Mt. Vernon, Ia. Three men teams. Date—April 18, 1913. Question—Resolved, that immigration into the United States should be restricted by an illiteracy test. Decisions—At Galesburg, Beloit Negative won 2 to 1. At Mt. Vernon, Knox Negative won 2 to 1. At Beloit, Cornell Negative won 3 to 0.

Annual Freshmen Debate—James Milliken Freshmen, Decatur, Ill. Three men teams. Date—May 2, 1913. Place—Decatur. Question—Resolved, that the United States should



now set a definite date for the independence of the Philippines. Decision—Knox Freshmen Negative won 3 to 0.

**Monmouth College.** Monmouth. United Presbyterian. M. M. Maynard, Coach. Primary trials in Literary Societies.

Annual Debate—William Jewell College, Liberty, Mo. Three men teams. Date—April 4, 1913. Place—Liberty. Question—Resolved, that the plan of banking reform suggested by the Monetary Commission should be adopted. Decision—William Jewell Negative 3 to 0.

Annual Sophomore Debate—Iowa Wesleyan College, Mt. Pleasant, Ia. Three men teams. Date—April 18, 1913. Place—Monmouth. Question—Resolved, that the plan of banking reform suggested by the Monetary Commission should be adopted. Decision—Monmouth Negative 2 to 1.

**Northwestern College.** Naperville. Evangelical. Prof. Edward N. Himmel, Coach. Debaters chosen by Coach and in primary trials.

Triangular—Augustana College, Ill., and Carroll College, Wis. Three men teams. (See Augustana above.)

**Northwestern University.** Evanston. Methodist Episcopal. James L. Lardner, Coach and Manager. Primary system.

Triangular—Chicago University and Michigan University. Three men teams. Date—Jan. 17, 1913. Question—Resolved, that the plan of banking reform proposed by the National Monetary Commission January 8, 1912, should be adopted by Congress. Decisions—At Evanston, Northwestern Affirmative won from Michigan 2 to 1. At Chicago, Chicago University Affirmative won from Northwestern 2 to 1. At Ann Arbor, Michigan Affirmative won from Chicago 3 to 0.

Annual Freshmen Debate—Chicago University Freshmen. Three men teams. Date—April 18, 1913. Place—Evanston. Question—Resolved, that College Conference base ball players should be allowed to play summer base ball for pay, without forfeiting their eligibility to the Conference. Decision—Northwestern Negative won 2 to 1.

**University of Chicago.** Chicago. Non-Sectarian. Howard Glenn Moulton, Coach. Address, Faculty Exchange, Univ. of Chicago. Primary system.

**Triangular—Northwestern University and Michigan University.**  
(See Northwestern immediately above.)

**Annual Freshmen Debate—Northwestern University.** (See Northwestern immediately above.)

**University of Illinois. Urbana. Non-Sectarian.** No report 1913. E. M. Holliday, Coach—on leave of absence. E. V. Ketcham, in charge of debating 1913. Primary system.

**Pentangular—Central Debating Circuit. Illinois, Iowa, Minnesota, Nebraska, and Wisconsin universities.** Illinois met Minnesota and Nebraska 1913. (See Minnesota and Nebraska.)

**Triangular—Indiana and Ohio State universities.** (See Indiana and Ohio.)

## INDIANA

**Butler College. Indianapolis. Non-Sectarian.** Harvey B. Stout, Jr., Coach, 642 Lemcke Annex Bldg. Robert D. Armstrong, Mgr. 1912-13. 82 N. Irvington. Primary system.

**Annual Debate—Earlham College, Richmond.** Three men teams. Date—March 8, 1913. Place—Butler College, Irvington, Ind. Question—Resolved, that the president of the United States should be elected for a term of six years and should be ineligible for re-election. Decision—Butler Negative 2 to 1.

**Annual Debate—Albion College. Albion, Mich.** Three men teams. Date—March 20, 1913. Place—Albion, Mich. Question—Resolved, that the president of the United States should be elected for a term of six years and should be ineligible for re-election. Decision—Albion Affirmative 3 to 0.

**DePauw University. Greencastle. Methodist Episcopal.** Prof. H. B. Gough, Coach. E. Troxell, Asst. Public Speaking. Primary system.

**Dual Debate—Indiana University, Bloomington.** Three men teams. Date—May 9, 1913. Question—Resolved, that the state of Indiana should adopt a system of compulsory accident insurance to be administered by the state and especially adapted to the needs of industrial wage earners. Constitutionality waived. Decisions—At Greencastle, Indiana Negative 2 to 1. At Bloomington, Indiana Affirmative 3 to 0.

**Earlham College.** Richmond. Friends. E. P. Trueblood, Coach. Primary system.

Annual Debate—Butler College, Indiana. (See Butler above.)

Annual Debate—Cincinnati University, Cincinnati, Ohio. Three men teams. Date—March 15, 1913. Place—Cincinnati. Question—Resolved, that the president of the United States should be elected for a term of six years and be ineligible for re-election. Decision—Earlham Affirmative 3 to 0.

Annual Debate—Albion College, Albion, Mich. Three men teams. Date—March 21, 1913. Place—Earlham. Question—Resolved, that the president of the United States should be elected for a term of six years and be ineligible for re-election. Decision—Earlham Affirmative 2 to 1.

**Indiana University.** Bloomington. Non-Sectarian. Ralph Richman, Coach. Earl Keyes, Mgr. 1912-14. Primary system.

Dual Debate—(See DePauw University, Indiana, above.)

Triangular—Illinois and Ohio universities. Three men teams. Date—With Ohio, March 9, 1913; with Illinois, March 16, 1913. Question—Resolved, that the recall of state and local judges by a popular vote is desirable. Decisions—At Bloomington, Ohio Negative 2 to 1. At Urbana, Indiana Negative 2 to 1. At Columbus, O., Ohio Affirmative won from Illinois 2 to 1.

Triangular—Notre Dame University and Wabash College, Indiana. Three men teams. Date—May 23, 1913. Question—Resolved, that the state of Indiana should grant equal suffrage to women. Decisions—At Bloomington, Indiana Affirmative 3 to 0. At Notre Dame, Notre Dame Affirmative won from Indiana 3 to 0. At Crawfordsville, Notre Dame Negative won from Wabash 2 to 1.

**Notre Dame, University of.** Notre Dame. Roman Catholic. William A. Bolger, C. S. C., Coach and Mgr.

Triangular—University of Indiana and Wabash College. Notre Dame won over both sides. Question—(See Indiana University above.)

**State Normal.** Terre Haute. Non-Sectarian. C. Baldwin Bacon, Coach. 728 South Sixth St. Primary system.

Triangular—Normal University, Normal, Ill., and Oshkosh Nor-

mal, Wis. Three men teams. Date—April 25, 1913. Question—Resolved, that the several states should readjust their systems of taxation so as to exempt personal property and improvements on land from all taxation. Decisions—At Terre Haute, Indiana Affirmative won from Oshkosh 3 to 0. At Normal, Ill., Indiana Negative won 3 to 0. At Oshkosh, Oshkosh won from Illinois 2 to 1 on Affirmative.

**Wabash College.** Crawfordsville. Non-Sectarian. Prof. Bodine, Coach. Eugene M. Goodbae, Mgr. 1912-14. Primary trials in Literary Societies.

Triangular—Indiana University and Notre Dame University, Ind. (See Indiana University above.)

## IOWA

**Amity College.** College Springs. No report.

Annual Debate—Cooper College, Sterling, Kansas. (See Kansas, Cooper College.)

**Buena Vista College.** Storm Lake. Miss Elizabeth Evans, Coach. M. C. Carlton, Pres. Orat. Assoc. Debaters chosen by coach. No report 1913.

Triangular—Highland Park College, Des Moines, Ia., and Lenox College, Hopkinton, Ia. (See Highland Park College.)

**Central University.** Pella. Baptist. Prof. Elizabeth Graham, Coach. Hal Norton, Mgr. 1912-13. Debaters chosen in Stull Prize Contest and in primary trials.

Triangular—Des Moines Baptist College, and Highland Park College, Des Moines. Three men teams. Date—April 11, 1913. Question—Resolved, that the United States should shape its legislation toward the gradual abandonment of the protective tariff. Decisions—At Pella, Central Affirmative won from Des Moines 3 to 0. At Des Moines, Highland Park Affirmative won from Central 2 to 1. At Des Moines, Des Moines College Affirmative won from Highland Park 2 to 1.

**Coe College.** Cedar Rapids. Non-Sectarian. Prof. H. S. Hollopeter, Coach. President, Forensic Board is Manager. Primary system.

Triangular—Morningside College, Sioux City, and Iowa Teachers' College, Cedar Falls. Three men teams. Date—April 11,

1913. Question—Resolved, that federal legislation should be enacted embodying the principles of the German Industrial Accident Insurance Law for the compensation of industrial accidents in the United States. Constitutionality granted. Decisions—At Cedar Rapids, Morningside Negative won from Coe 2 to 1. At Sioux City, Teachers' College Negative won from Morningside 2 to 1. At Cedar Falls, Teachers' College Affirmative won from Coe 3 to 0.

**Cornell College.** Mt. Vernon. Methodist Episcopal. Prof. A. S. Keister, Coach. Ralph Marvel, Mgr. 1912-13. Primary system. No report 1913.

Triangular—Beloit College, Wis., and Knox College, Ill. (See Knox College, Illinois, above.)

**Des Moines College.** Des Moines. Baptist. (Mrs.) F. T. Stephenson, Eng. Dep't., in charge. W. N. Dreier, Mgr. 1912-13. Burrus E. Beard, Mgr. 1913-14. Primary system.

Triangular—Central College, Pella, and Highland Park College, Des Moines. (See Central College above.)

**Drake University.** Des Moines. Non-Sectarian. Frank E. Brown, Coach. Tom Walters, Mgr. 1912-13. Debaters chosen by coach and in primary system. No report 1913.

Annual Debate—University of S. Dakota, Vermillion. (See S. Dakota.)

Dual Debate—University of Southern California, Los Angeles. Two men teams. (See Univ. of Southern California.)

Triangular—Iowa State College, Ames, and Grinnell College, Grinnell. (See Iowa State College.)

**Grinnell College.** Grinnell. Non-Sectarian. No report 1913.

Triangular—Iowa State College, Ames, and Drake University, Des Moines. (See Iowa State College.)

**Highland Park College.** Des Moines. Presbyterian. H. M. Mumford, Coach and Mgr. Debaters chosen by coach and judges in primary.

Triangular—Central University, Pella, and Des Moines College, Des Moines. (See Central College above.)

Triangular—Buena Vista College, Storm Lake, and Lenox College, Hopkinton. Three men teams. Date—April 18, 1913. Question—Resolved, that our national legislation should be shaped toward the gradual abandonment of the protective

tariff. Decisions—At Des Moines, Highland Park Negative won from Buena Vista 3 to 0. At Hopkinton, Highland Park Affirmative won from Lenox 3 to 0. At Storm Lake, Buena Vista Negative won from Lenox 2 to 1.

**Iowa State College.** Ames. Non-Sectarian. Prof. A. C. MacMurray, Coach. President of Forensic League manages. Primary system.

**Dual Debate**—Iowa Teachers' College, Cedar Falls. Three men teams. Date—November 17, 1912. Question—Resolved, that the recall should be applied to all state and municipal officers except judges. Decisions—At Ames, State College won 3 to 0. At Cedar Falls, Teachers' College won 2 to 1.

**Triangular**—Drake University, Des Moines, and Grinnell College, Grinnell. Three men teams. Date—March 14, 1913. Question—Resolved, that the Sherman Anti-Trust law should be repealed. Decisions—At Des Moines, Drake University Affirmative won from State College 4 to 1. At Ames, Iowa State Affirmative won from Grinnell 2 to 1. At Grinnell—not reported.

**Iowa State Teachers' College.** Cedar Falls. Non-Sectarian. John Barnes, Coach. Debaters chosen by coaches and in primary trial.

**Dual Debate**—Iowa State College. (See immediately above.)

**Triangular**—Coe College, Cedar Rapids, and Morningside College, Sioux City. (See Coe College above.)

**Iowa Wesleyan College.** Mt. Pleasant. Methodist Episcopal. Primary system. No report 1913.

**Annual Debate**—Monmouth College, Ill. (See above.)

**Lenox College.** Hopkinton. Presbyterian. A. W. Calhoun, Coach and Mgr. Primary system.

**Triangular**—Highland Park College, Des Moines, and Buena Vista College, Storm Lake. (See Highland Park College, Ia., above.)

**Leander Clark College.** Toledo. United Brethren. Ross Masters, Coach. Primary system. No report 1913.

**Triangular**—Penn College, Oskaloosa, and Parsons College, Fairfield. (See Penn College, Ia.)

**Morningside College.** Sioux City. Methodist. Charles A. Marsh, Coach and manager. Debaters chosen by coaches.

**Triangular**—Coe College, Cedar Rapids, and Teachers' College, Cedar Falls. (See Coe College, Ia., above.)

**Parsons College.** Fairfield. Presbyterian. E. E. Watson, Coach. Primary system. No report 1913.

**Triangular**—Leander Clark College, Toledo, and Penn College, Oskaloosa. (See Penn College immediately below.)

**Penn College.** Oskaloosa. H. L. Morris, Coach. Primary system in Literary Societies.

**Triangular**—Leander Clark College, Toledo, and Parsons College, Fairfield. Two men teams. Date—Feb. 21, 1913. Question—Resolved, that the Initiative and Referendum should be adopted by the state governments. Decisions—At Oskaloosa, Penn Affirmative won from Parsons 3 to 0. At Toledo, Penn Negative won from Leander Clark 3 to 0. At Fairfield, Parsons Affirmative won from Leander Clark 2 to 1.

**Simpson College.** Indianola. Methodist. Levi P. Goodwin, Coach, 211 Iowa Ave. Primary system. No report 1913.

**University of Iowa.** Iowa City. Non-Sectarian. No report 1913.

**Pentagonal**—Central Debating Circuit.—Illinois, Iowa, Minnesota, Nebraska, and Wisconsin universities. Iowa met Minnesota and Wisconsin in 1913. Three men teams. Date—Dec. 13, 1912. Question—Resolved, that all corporations engaged in interstate commerce should be required to take out federal charters, it being conceded that such a requirement would be constitutional, and that federal license shall not be available as an alternative plan. Decisions—At Iowa City, Iowa Affirmative won from Wisconsin 2 to 1. At Minneapolis, Minnesota Affirmative won 2 to 1.

## KANSAS

**Baker University.** Baldwin. Methodist. Prof. Alfred E. Leach, Coach. W. M. LaBrant, Mgr. 1912-13. Primary system.

**Triangular**—Washburn College, Topeka, and Nebraska Wesleyan, Lincoln. Three men teams. Date—March 14, 1913. Question—Resolved, that all cities in the United States having a population of from 25,000 to 500,000 should adopt the com-

mission form of government. Decisions—At Baldwin, Baker Negative won from Nebraska Wesleyan 2 to 1. At Topeka, Washburn Negative won from Baker 3 to 0. At Lincoln, Nebraska Wesleyan Negative won from Washburn 2 to 1.

**Bethany College.** Lindsburg. Lutheran. Prof. P. H. Pearson, Coach. Leslie Carpenter, Sec., Oratory and Debate Com. Primary system.

Annual Debate—Augustana College, Rock Island, Ill. Three men teams. Date—May 3, 1913. Place—Rock Island. Question—Resolved, that a uniform system of tolls should be established for the ships of all nations using the Panama Canal. Decision—Bethany Affirmative 2 to 1.

**Campbell College.** Holton. United Brethren. Prof. Charles Bisset, Coach. F. W. May, Mgr. 1912-14. Debaters chosen in primary trial by a committee of students and faculty members.

Annual Debate—Cooper College, Sterling. Three men teams. Date—April 11, 1913. Place—Sterling. Question—Resolved, that the United States should permanently retain the Philippine Islands. Decision—Campbell College Negative won 3 to 0.

**College of Emporia.** Emporia. Presbyterian. Primary system. No report 1913.

Triangular—Ottawa University, Ottawa, and Southwestern University, Winfield, Kansas. (See Ottawa University below.)

**Cooper College.** Sterling. United Presbyterian. S. A. Wilson, Coach. Miss Carrie McClure, Mgr. 1912-13. Primary system.

Annual Debate—Amity College, College Springs, Ia. Two men teams. Date—March 27, 1913. Place—College Springs. Question—Resolved, that the tariff should be imposed for revenue only. Decision—Cooper Negative 2 to 1.

Annual Debate—McPherson College, McPherson, Kans. Two men teams. Date—April 17, 1913. Place—Sterling. Question—Resolved, that the popular recall of the federal judiciary is right in principle. Decision—Cooper Negative 3 to 0.

Annual Debate—Campbell College, Holton, Kans. (See above.)

**Fairmount College.** Wichita. Congregational. W. G. Binnewies, Coach, 1602 Holyoke. Primary system.



**Annual Debate—(Girls)** Kansas Wesleyan, Salina. Three on team. Date—March 21, 1913. Place—Salina. Question—Resolved, that maintaining the present standing of the Army and Navy in the United States is the greatest cause of the high cost of living. Decision—Kansas Wesleyan Negative 3 to 0.

**Dual Debate—Kansas Agricultural College, Manhattan.** Three men teams. Date—April 11, 1913. Question—Resolved, that the constitutions of the several states be so amended as to subject the decisions of the Supreme courts on constitutional questions to a recall by popular vote. Decision—At Wichita, K. S. A. C. Negative 2 to 1. At Manhattan, K. S. A. C. Affirmative 2 to 1. Fairmount reports that each school won one debate but does not designate further. K. S. A. C. claims both decisions.

**Friends University.** Wichita. Friends. W. J. Reagan, Coach, 526 S. Millwood. Howard Kershner, Mgr. 1912-13. Gervas Carey, Mgr. 1913-14. Primary system.

**Dual Debate—McPherson College, McPherson, Kans.** Three men teams. Date—May 2, 1913. Question—Resolved, that the popular recall of federal judges is right in principle. Decisions—At Wichita, Friends Affirmative won 2 to 1. At McPherson, Friends Negative 2 to 1.

**Kansas State Agricultural College.** Manhattan. Non-Sectarian. Prof. J. W. Searson, Coach. Carl Ostrum, Asst. Coach. Debaters chosen by coaches in primary trials and in Literary Societies.

**Annual Debate—Kansas Wesleyan University, Salina.** Three men teams. Date—March 28, 1913. Place—Manhattan. Question—Resolved, that all judges should be subject to the recall. Decision—K. S. A. C. Negative won 3 to 0.

**Dual Debate—Fairmount College, Wichita.** (See Fairmount College, Kansas, above.)

**Triangular—Colorado Agricultural College, Ft. Collins, and Oklahoma Agricultural and Mechanical College, Stillwater.** Two men teams. Date—April 4, 1913. Question—Resolved, that the constitutions of the various states of the union should be so amended as to subject the decisions of the state supreme courts on constitutional questions to recall by

popular vote. Decisions—At Manhattan, Kansas Affirmative won from Oklahoma 3 to 0. At Ft. Collins, Kansas Negative won from Colorado on grades, two judges being present. At Stillwater, Oklahoma Affirmative won from Colorado 2 to 1.

**Annual Debate**—Kansas State Normal, Emporia. Two men teams. Date—May 9, 1913. Place—Emporia. Question—Resolved, that the system of direct legislation known as the Initiative and Referendum should be adopted by the state of Kansas. Decision—Judges were not present.

**Kansas Wesleyan University.** Salina. Methodist. C. J. Boddy, Coach. Aura Nesmith, Mgr. 1912-13. J. B. Heckert, Mgr. 1913-14. Primary system.

**Annual Debate**—(Girls). Fairmount College, Wichita, Kansas. (See above.)

**Annual Debate**—Kansas State Agricultural College, Manhattan. (See above.)

**Annual Debate**—Ottawa University, Ottawa, Kansas. Two men teams. Date—Feb. 21, 1913. Place—Ottawa. Question—Resolved, that Congress should enact legislation looking toward the purchase of the railroads by the government. Constitutionality granted. Decision—Ottawa Affirmative 2 to 1.

**McPherson College.** McPherson. E. F. Long, Coach. J. A. Blair, Mgr. 1912-13. Debaters chosen by coach.

**Annual Debate**—Cooper College, Sterling, Kansas. (See above.)

**Dual Debate**—Friends University, Wichita, Kans. (See above.)

**Ottawa University.** Ottawa. Baptist. C. O. Hardy, Coach. Chas. T. Battin, Mgr. 1912-13. Primary system.

**Annual Debate**—Kansas Wesleyan, Salina. (See above.)

**Annual Debate**—(Girls) Washburn College, Topeka. Three on team. Date—April 7, 1913. Place—Ottawa. Question—Resolved, that there should be an educational qualification for suffrage. Constitutionality granted. Decision—Washburn Negative won 3 to 0.

**Annual Debate**—Denver University, Denver, Colo. Three men teams. Date—April 16, 1913. Place—Ottawa. Question—Resolved, that the recall should be applied to the state judiciary. Decision—Ottawa Negative 3 to 0.

**Triangular**—College of Emporia, Emporia, and Southwestern College, Winfield. Three men teams. Date—April 30, 1913. Question—Resolved, that there should be compulsory federal arbitration in disputes arising between employers and employees. Constitutionality granted. Decisions—At Ottawa, Ottawa Negative won from Southwestern 2 to 1. At Emporia, Ottawa Affirmative won 2 to 1. At Winfield, Southwestern Negative won from Emporia 3 to 0.

**Southwestern College.** Winfield. Methodist. A. J. McCulloch, Coach. Cecil M. Deist, Mgr. 1912-13. Primary system.

**Annual Debate**—Park College, Parkville, Mo. Three men teams. Date—April 15, 1913. Place—Parkville. Question—Resolved, that there should be compulsory federal arbitration of disputes arising between employers and employees. Constitutionality granted. Decision—Park Negative 2 to 1.

**Annual Debate**—Oklahoma Baptist College, Blackwell. Three men teams. Date—April 8, 1913. Place—Blackwell. Question—Resolved, that there should be compulsory federal arbitration in the settlement of labor disputes. Constitutionality granted. Decision—Oklahoma Baptist Affirmative won 2 to 1.

**Triangular**—College of Emporia, Emporia, and Ottawa University, Ottawa. (See Ottawa immediately above.)

**University of Kansas.** Lawrence. Non-Sectarian. G. A. Gesell, Coach. Primary system. No report 1913.

**Triangular**—Universities of Colorado and Oklahoma. (See Colorado.)

**Annual Debate**—Missouri University. (See Missouri.)

**Washburn College.** Topeka. Non-Sectarian. E. D. Schonberger, Coach, 1500 Mulvane St. Primary trials in Literary Societies.

**Triangular**—Baker University, Baldwin, Kans., and Nebraska Wesleyan, Lincoln. (See Baker University above.)

**Annual Debate**—Park College, Parkville, Mo. Three men teams. Date—April 12, 1913. Place—Topeka. Question—Resolved, that the United States should enact legislation submitting all labor disputes to compulsory arbitration. Decision—Washburn Affirmative 2 to 1.

**Annual Debate—(Girls) Ottawa University, Ottawa, Kans.** (See Ottawa above.)

### LOUISIANA

**Louisiana State University.** Baton Rouge. Non-Sectarian. Prof. J. Q. Adams, Coach, 623 Lafayette St. Primary system.

**Pentangular—Universities of Arkansas, Mississippi, Tennessee, and Texas.** Two men teams. Date—April 11, 1913. Question—Resolved, that the plan for a national reserve association as proposed by the United States Monetary Commission offers a desirable remedy for the defects in our banking and currency systems. Louisiana met Arkansas and Mississippi in 1913. Decisions—At Baton Rouge, Louisiana Affirmative won from Arkansas 2 to 1. At Oxford, Miss., Louisiana Negative won 2 to 0. Only two judges were present.

**Tulane University.** New Orleans. Non-Sectarian. Nicholas Callan, Coach, 1712 Baronne St. William Guste, Mgr. 1912-13. Herman Barnett, Mgr. 1913-14, 1722 Louisiana Ave. Debaters chosen by coaches in primary.

**Triangular—University of Georgia and Washington and Lee, Va.** Two men teams. Date—May 3, 1913. Question—Resolved, that labor unions are inimical to the industrial welfare of our country. Decisions—At New Orleans, Tulane Affirmative won from Georgia 3 to 0. At Lexington, Va., Tulane Negative won 3 to 0. At Athens, Georgia Affirmative won 2 to 1 from Washington and Lee.

### MAINE

**Bates College.** Lewiston. Non-Sectarian. S. R. Oldham, Coach, 10 Frye St. Gordon L. Cave, Mgr., 20 Parker Hall. Debaters chosen by coach and in primaries. No report 1913. **Annual Debate—Clark College, Worcester, Mass.** (See under Mass.)

**Annual Debate—Colgate University, Hamilton, N. Y.** (See under N. Y.)

**Bowdoin College.** Brunswick. Non-Sectarian. Wm. Hawley Davis, Prof. of English, in charge. J. A. Norton, Mgr. 1912-13. R. E. Simpson, Mgr. 1913-14. Primary system.

**Triangular**—Wesleyan University, Middletown, Conn., and Hamilton College, Clinton, N. Y. Three men teams. Date—April 10, 1913. Question—Resolved, that tariff for revenue only would materially reduce the high cost of living. Decisions—At Brunswick, Bowdoin Affirmative won from Hamilton 3 to 0. At Middletown, Wesleyan Affirmative won 3 to 0. At Clinton, N. Y., Hamilton Affirmative won from Wesleyan 2 to 1.

**Colby College.** Waterville. Baptist. Prof. H. C. Libby, Coach and Mgr. Primary system.

**Annual Debate**—Clark College, Worcester, Mass. Three men teams. Date—April 25, 1913. Place—Worcester, Mass. Question—Resolved, that the United States should adopt such a broad and generous legislative policy in the subsidizing of American shipping engaged in foreign trade as to allow American ship owners to operate their ships profitably and to compete successfully with the vessels of foreign countries. Decision—Colby Affirmative 3 to 0.

### MARYLAND

**Johns Hopkins University.** Baltimore. Non-Sectarian. Dr. John C. French, Coach. A. L. Hammond, Mgr. 1912-13. Debaters chosen by coach in primary trials.

**Triangular**—Universities of North Carolina and Virginia. Two men teams. Date—April 19, 1913. Question—Resolved, that the Hay-Pauncefote treaty being left out of consideration, the tolls of the Panama Canal should be the same for merchant vessels of all nations. Decisions—At Baltimore, North Carolina Negative won from Virginia 3 to 2. At Charlottesville, Va., North Carolina Affirmative won from Johns Hopkins 3 to 2. At Chapel Hill, N. C., Johns Hopkins Affirmative won from Virginia 5 to 0. (Note number of judges and the departure from the usual custom of having one team from each school debate on the home floor.)

### MASSACHUSETTS

**Amherst College.** Amherst. Non-Sectarian. John Corsa, Coach. W. J. Wilcox, Mgr. 1912-13. Primary system.

**Triangular**—Wesleyan University, Middletown, Conn., and Will-

iams College, Williamstown, Mass. Two men teams. Date—Dec. 13, 1912. Question—Resolved, that the recall of judges should be instituted in all the states. Decisions—At Amherst, Amherst Affirmative won from Williams 3 to 0. At Middletown, Wesleyan Affirmative won from Amherst 2 to 1. At Williamstown, Williams Affirmative won from Wesleyan 2 to 1.

**Boston College.** Boston. Roman Catholic. Wm. F. McFadden, Coach. Leo A. Hughes, Mgr. 1912-13. Thomas J. Donnelly, Mgr. 1913-14. Primary system.

Annual Debate—Clark College, Worcester, Mass. Three men teams. Date—May 2, 1913. Place—Boston. Question—Resolved, that under present conditions the granting of universal suffrage to women would be beneficial to the United States. Decision—Boston College Negative 3 to 0.

Annual Debate—Georgetown College, Washington, D. C. Three men teams. Date—April 13, 1913. Place—Washington. Question—Resolved, that United States vessels engaged in the coastwise trade be free from toll in passing through the Panama Canal. Decision—Boston College Affirmative 3 to 0. (A debate between the Fulton Society of Boston College and the Philodmic Society of Georgetown College.)

Annual Debate—Fordham University, Fordham, N. Y. Three men teams. Date—May 9, 1913. Place—Boston. Question—Resolved, that the federal government should own and control the railroads. Decision—Boston College Negative 3 to 0.

**Clark College.** Worcester. Non-Sectarian. Dr. F. H. Hawkins in charge. Primary system.

Annual Debate—Boston College, Mass. (See immediately above.)

Annual Debate—Bates College, Lewiston, Me. Three men teams. Date—April 25, 1913. Place—Lewiston. Question—Resolved, that legislation exempting American coastwise ships from Panama Canal tolls should be repealed. Decision—2 to 1. (Report does not say for whom.)

Annual Debate—Colby College, Waterville, Me. (See under Maine.)

**Harvard University.** Cambridge. Non-Sectarian. Sidney Cur-

tis, Coach, 50 State St., Boston, Mass. James A. Donovan, Mgr. 1912-13. G. E. Hubbard, Mgr. 1913-14. Debaters chosen by coaches in primary.

**Triangular**—Yale University, New Haven, Conn., and Princeton University, Princeton, N. J. Three men teams. Date—March 14, 1913. Question—Resolved, that the United States should exempt our coastwise trade from Panama Canal tolls. Decisions—At Cambridge, Harvard Negative won from Yale 3 to 0. At Princeton, Harvard Affirmative won from Princeton 3 to 0. At New Haven, Princeton Affirmative won from Yale 2 to 1.

**Freshmen Triangular**—Yale Freshmen and Princeton Freshmen. Three men teams. Date—May 2, 1913. Question—Resolved, that cabinet members should be allowed a seat and a voice in Congress. Decisions—At Cambridge, the Princeton Affirmative won from Harvard. At New Haven, the Harvard Affirmative won from Yale. At Princeton the Princeton Negative won from Yale.

**Holy Cross College.** Worcester. Catholic. Frederick H. Keaney, S. J., Coach. J. Alfred F. Lane, Mgr. 1912-13. Primary system.

**Annual Debate**—Fordham University, Fordham, N. Y. Three men teams. Date—Feb. 21, 1913. Place—Worcester, Mass. Question—Resolved, that the people of any state in the United States shall have the right to initiate any bill of legislation for their respective state and reject any bill that has been passed by their constituted legislators. Decision—Holy Cross Affirmative won 3 to 0.

**Williams College.** Williamstown. Non-Sectarian. Prof. Lewis Perry in charge. D. H. Van Doren, Pres. Forensic. Primary system.

**Triangular**—Amherst College, Amherst, Mass., and Wesleyan University, Middletown, Conn. (See Amherst above, and Wesleyan under Connecticut.)

**Triangular**—Brown University, Providence, R. I., and Dartmouth College, Hanover, N. H. Three men teams. Date—March 6, 1913. Question—Recall of Judicial Decisions. Decisions—At Williamstown, Brown Affirmative won from

Williams 2 to 1. At Hanover, Dartmouth Negative won from Williams 3 to 0. At Providence—no report.

### MICHIGAN

**Albion College.** Albion. Methodist Episcopal. Chas. H. Woolbert, Coach. Ernest Merrill, Mgr. 1912-13. Primary system. Annual Debate—Beloit College, Beloit, Wis. Three men teams. Date—Jan. 17, 1913. Place—Albion. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Albion Affirmative 2 to 1.

Annual Debate—Butler College, Indianapolis, Ind. (See under Indiana.)

Annual Debate—Earlham College, Richmond, Ind. (See under Indiana.)

Annual Debate—Lawrence College, Appleton, Wis. Three men teams. Date—April 4, 1913. Place—Appleton. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Albion Affirmative 2 to 1.

**Alma College.** Alma. Presbyterian. No report 1913.

Triangular—Olivet College, Olivet, Mich., and Hope College, Holland, Mich. (See Hope College.)

Triangular—Michigan Agricultural College, East Lansing, and Ypsilanti Normal, Ypsilanti, Mich. (See Mich. Agricultural College.)

**Hillsdale College.** Hillsdale. Non-Sectarian. Roy H. Holmen, Rhetoric and Debating. Reported no debates. However, Kalamazoo College (see below) reports a debate with Hillsdale.

**Hope College.** Holland. Ref. of Amer. Prof. J. B. Nykerk, Coach. Edward Wickers, Mgr. 1912-13. Primary system.

Triangular—Alma College, Alma, Mich., and Olivet College, Olivet, Mich. Three men teams. Date—April 11, 1913. Question—Resolved, that a federal board should be established for the compulsory arbitration of labor disputes. Decisions—At Hope, Hope Affirmative won from Olivet 2 to 1. At Alma, Hope Negative won from Alma 2 to 1. At Olivet—No report.

**Kalamazoo College.** Kalamazoo. Baptist. E. J. MacEwan,



Eng. Dep't. in charge. President of Sherwood Literary Society is manager. Debaters chosen by Literary Society.

Annual Debate—Hillsdale College, Hillsdale. Three (?) men teams. Date—(?). Place—Kalamazoo. Question—Woman suffrage. Decision—Kalamazoo Affirmative 2 to 1.

**Michigan Agricultural College.** East Lansing. Non-Sectarian. W. S. Bittner, Coach. V. Steward, Mgr. 1912-14. Debaters chosen by coaches in primary.

Triangular—Alma College, Alma, Mich., and Ypsilanti Normal, Ypsilanti, Mich. Three men teams. Date—May 9, 1913. Question—Resolved, that the federal government should adopt a policy of regulating the trusts rather than of dissolving them. Decisions—At East Lansing, Mich. Agri. Coll. Affirmative won from Alma 3 to 0. At Ypsilanti, Ypsilanti Affirmative won from M. A. C. 2 to 1. At Alma, Ypsilanti Negative won from Alma 2 to 1.

**Olivet College.** Olivet. Non-Sectarian. Dr. Thomas W. Nadal, Eng. Dep't., Coach. Primary system. No report 1913.

Triangular—Alma and Hope colleges, Michigan. (See Hope College.)

**University of Michigan.** Ann Arbor. Non-Sectarian. No Coach. Thomas C. Trueblood, Faculty Member in charge. Primary system.

Triangular—University of Chicago, Ill., and Northwestern University, Evanston, Ill. Three men teams. Date—Jan. 17, 1913. Question—Resolved, that the plan of banking reform proposed by the national monetary commission Jan. 8, 1912, should be adopted by Congress. Decisions—At Ann Arbor, Michigan Affirmative won from Chicago 3 to 0. At Evanston, Northwestern Affirmative won from Michigan 2 to 1. At Chicago, Chicago Affirmative won from Northwestern 2 to 1.

**Ypsilanti Normal.** Ypsilanti. Non-Sectarian. No report 1913.

Triangular—Alma College, Alma, Mich., and Michigan Agricultural College, East Lansing. (See Mich. Agri. Coll.)

## MINNESOTA

**Carleton College.** Northfield. Non-Sectarian. I. M. Cochran, Coach and Mgr. Primary system.

**Triangular—Ripon College, Ripon, Wis., and S. Dakota Wesleyan, Mitchell.** Three men teams. Date—April 25, 1913. Question—Resolved, that all corporations engaged in interstate commerce should be required to take out a federal charter on such terms as Congress may, by law, prescribe. Constitutionality granted. Decisions—At Northfield, Carleton Affirmative won from S. Dakota Wesleyan 3 to 0. At Ripon, Carleton Negative won 2 to 1. At Mitchell, Ripon Negative won from S. Dakota Wesleyan 3 to 0.

**Hamline University.** St. Paul. Methodist Episcopal. Don. D. Lescohier, Coach. Clarence Nelson, Mgr. 1912-13. Primary system.

**Triangular—Macalester College, St. Paul, and St. Olaf College, Northfield, Minn.** (See Macalester College immediately below.)

**Macalester College.** St. Paul. Presbyterian. Prof. Glenn Clark, Coach, 1787 Goodrich Ave., St. Paul. J. R. Neller, Mgr. 1912-13. Primary system.

**Triangular—Hamline University, St. Paul, and St. Olaf College, Northfield, Minn.** Three men teams. Date—March 14, 1913. Question—Resolved, that all corporations doing an interstate business should be required to incorporate under federal law. Decisions—At Macalester, Macalester Affirmative won from St. Olaf 2 to 1. At Hamline, Hamline Affirmative won from Macalester 3 to 0. At Northfield, St. Olaf Affirmative won from Hamline 2 to 1.

**St. Olaf College.** Northfield. Lutheran. No Coach. Prof. Julius Boraas, Mgr. 1912-13. Ernest O. Melby, Pres. Deb. League. Primary trials in Lit. Societies.

**Triangular—Hamline University and Macalester College, St. Paul.** (See Macalester immediately above.)

**Annual Debate—Lawrence College, Appleton, Wis.** Three men teams. Date—March 7, 1913. Place—Appleton, Wis. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Lawrence Negative 3 to 0.

**University of Minnesota.** Minneapolis. Non-Sectarian. Hal-dor B. Gilson, Coach. Debate board manages. Primary system.

**Pentangular—Illinois, Iowa, Nebraska, and Wisconsin universities.**  
**Minnesota met Illinois and Iowa 1913.** Three men teams.  
**Date—Dec. 13, 1912.** Question—Resolved, that all corporations engaged in interstate commerce should be required to take out federal charters, constitutionality granted, and provided that federal license shall not be available as an alternate plan. Decisions—At Minneapolis, Minnesota Affirmative won from Iowa 3 to 0. At Urbana, Minnesota Negative won from Illinois 2 to 1.

### MISSISSIPPI

**University of Mississippi.** Oxford. Non-Sectarian. No report 1913.

**Pentangular—Universities of Arkansas, Louisiana, Tennessee, and Texas.** Mississippi met Louisiana and Texas in 1913. Two men teams. Date—April 11, 1913. Question—Resolved, that the plan for a national reserve association as proposed by the United States monetary commission offers a desirable remedy for defects in our banking and currency systems. Decisions—At Oxford, Miss., Louisiana Negative won from Mississippi 2 to 0. (Only two judges were present.) At Austin, Texas, Texas Affirmative won 3 to 0.

### MISSOURI

**Central College.** Fayette. Methodist Episcopal. Charles Bernard Flow, Eng. Dep't., Coach. T. Van Studdiford, Mgr. 1912-13. Primary system.

**Triangular—Missouri Valley College, Marshall, and Westminster College, Fulton, Mo.** Three men teams. Date—April 10, 1913. Question—Resolved, that the United States should no longer withhold self-government from the Philippines. Decisions—At Fayette, Central College Affirmative won from Missouri Valley 3 to 0. At Fulton, Westminster Affirmative won from Central 2 to 1. At Marshall, Westminster Negative won from Missouri Valley 2 to 1.

**Drury College.** Springfield. Non-Sectarian. No report 1913.  
**Annual Debate—Washington University, St. Louis.** (See below.)  
**Missouri State Normal.** (Second District) Warrensburg.

**Frederick Abbott, Coach.** Debate Committee manages. Debaters chosen by coach and primary.

**Annual Debate—Northwestern Normal School, Alva, Okla.** Three men teams. Date—April 25, 1913. Place—Alva, Okla. Question—Resolved, that the government of England is superior to that of the United States. Decision—Oklahoma Normal Negative won 3 to 0.

**Missouri Valley College.** Marshall. Presbyterian. No Coach. H. L. McDaniel, Mgr. 1912-13. Debaters chosen in Literary Societies.

**Triangular—Central College, Fayette, Mo., and Westminster College, Fulton, Mo.** (See Central College above.)

**Park College.** Parkville, Non-Sectarian. J. H. Lawrence, Coach. Ralph White and Melville Montgomery, Mgrs. 1912-13. Debaters chosen by primary trials in literary societies.

**Annual Debate—Southwestern College, Winfield, Kans.** Three men teams. Date—April 15, 1913. Place—Parkville. Question—Resolved, that there should be compulsory arbitration in disputes arising between employers and employees. (Constitutionality granted.) Decision—Park College Negative won 2 to 1.

**Annual Debate—Washburn College, Topeka, Kans.** Three men teams. Date—April 11, 1913. Place—Topeka. Question—Resolved, that there should be compulsory federal arbitration in labor disputes. (Constitutionality granted.) Decision—Washburn Affirmative won 2 to 1.

**University of Missouri.** Columbia. Non-Sectarian. Frederick M. Tisdell, Asst. Prof. of English in charge. Primary system.

**Annual Debate—Kansas University, Lawrence, Kans.** Two men teams. Date—April 26, 1913. Place—Columbia. Question—Resolved, that the federal government should adopt the policy of regulated competition as the solution of the trust problem. Decision—Kansas Affirmative won 2 to 1.

**Triangular—Colorado and Texas universities.** Two men teams. Date—April 18, 1913. Question—Resolved, that a system of compulsory old age insurance should be adopted by the federal government. Decisions—At Columbia—Texas Negative won from Missouri 3 to 0. At Boulder, Colo., Missouri

Negative won from Colorado 2 to 1. At Austin, Texas, Colorado Negative won 2 to 1.

**Washington University.** St. Louis. Non-Sectarian. R. G. Usher, Coach. D. H. Kotthoff, Mgr. 1912-13. W. A. Dunham, Mgr. 1913-14. 730 Bayard, St. Louis. Primary system. Annual Debate—Drury College, Springfield, Mo. Three men teams. Date—April 11, 1913. Place—St. Louis. Question—Resolved, that the policy of regulation of monopoly is preferable to the policy of prohibition of monopoly. (With a definition agreed upon which practically excluded natural monopolies.) Decision—Drury Affirmative won 2 to 1.

**Westminster College.** Fulton. Presbyterian. No report 1913. Triangular—Central College, Fayette, Mo., and Missouri Valley College, Marshall. (See Central College above.)

**William Jewell College.** Liberty. Baptist. Dr. Elmer C. Griffith, Coach. Robin L. Hunt, Mgr. 1912-13. Chas. S. Billings, Mgr. 1913-14. Primary trials in literary societies. Annual Debate—Monmouth College, Monmouth, Ill. Three men teams. Date—April 4, 1913. Place—Liberty. Question—Resolved, that the plan of banking reform suggested by the national monetary commission should be adopted by Congress. Decision—William Jewell Negative won 3 to 0.

Annual Debate—University of Denver, Denver, Colo. Three men teams. Date—April 18, 1913. Place—Liberty. Question—Resolved, that the recall should be applied to the state judiciary. Decision—William Jewell Negative 3 to 0.

Annual Debate—Yankton College, Yankton, S. Dakota. Three men teams. Date—April 25, 1913. Place—Yankton, S. Dak. Question—Resolved, that the plan of banking reform suggested by the national monetary commission should be adopted by Congress. Decision—William Jewell Affirmative 2 to 1.

## MONTANA

**Montana State College.** Bozeman. Non-Sectarian. Irwin T. Gilruth, Coach. Debaters chosen by coaches. No report 1913. Annual Debate—University of Montana, Missoula. (See immediately below.)

**University of Montana.** Missoula. Non-Sectarian. G. M.

**Palmer, Coach. S. G. Watkins, Mgr. 1913-14. Primary system.**

**Annual Debate—Montana State College, Bozeman. Two men teams. Date—March 13, 1913. Place—Bozeman. Question—Resolved, that a Minimum Wage scale to be operative in workshops, factories, department stores, and the sweated industries should be established by law. (Constitutionality granted.) Decision—University of Montana Affirmative 2 to 1.**

**Annual Debate—State College of Washington, Pullman. Two men teams. Date—April 19, 1913. Place—Missoula. Question—Resolved, that a minimum wage scale to be operative in factories, workshops, and department stores should be established by law. (Constitutionality granted.) Decision—Montana Affirmative won 3 to 0.**

### NEBRASKA

**Bellevue College. Bellevue. Non-Sectarian. No report 1913.**

**Triangular—Cotner College, Bethany, Nebr., and Doane College, Crete, Nebr. (See Cotner immediately below.)**

**Cotner College. Bethany. Christian. H. O. Pritchard, Coach 1912-13. Coach 1913-14 not selected. (Mr. Pritchard goes to Eureka College, Ill.) Avery Morton, Mgr. 1912-13. Peter Cope, Mgr. 1913-14. Primary system.**

**Triangular—Bellevue College, Bellevue, and Doane College, Crete, Nebr. Three men teams. Date—March 14, 1913. Question—Resolved, that the trusts should be regulated rather than prohibited. Decisions—At Bethany, Cotner Affirmative won from Doane 2 to 1. At Bellevue, Cotner Negative won from Bellevue 2 to 1. At Crete, Bellevue Negative won from Doane 2 to 1.**

**Creighton College. (Law School.) Omaha. Catholic. No report 1913.**

**Annual Debate—University of South Dakota. (See under S. Dakota.)**

**Doane College. Crete. Congregational. Prof. J. E. Taylor, Coach. Frank A. Dawes, Mgr. 1912-13. Primary system.**

**Triangular—Cotner College, Bethany, Nebr., and Bellevue College, Bellevue, Nebr. (See Cotner above.)**

**Kearney State Normal.** Kearney. Non-Sectarian. George N. Porter, Coach and Mgr., 615 W. Twenty-sixth St. Primary system.

**Triangular**—Peru State Normal, Peru, and Wayne State Normal, Wayne, Nebr. Three men teams. Date—May 2, 1913. Question—Resolved, that the minimum wage scale should be established in all industries. Decisions—At Kearney, Wayne Negative won from Kearney 2 to 1. At Peru, Kearney Negative won from Peru 2 to 1. At Wayne, Peru Negative won from Wayne 3 to 0.

**Nebraska Wesleyan University.** University Place. Methodist. O. H. Venner, Coach. Clarence Davis, Mgr. 1912-13. Cecil F. Lavery, Mgr. 1913-14. 305 E. Sixteenth St. Debaters chosen by coaches in primary trials.

**Triangular**—Baker University, Baldwin, Kans., and Washburn College, Topeka, Kans. Three men teams. Date—March 14, 1913. Question—Resolved, that the commission form of government should be adopted by all cities in the United States having a population between 25,000 and 500,000. Decisions—At University Place—Wesleyan Negative won from Washburn 3 to 0. At Baldwin, Baker Negative won from Wesleyan 2 to 1. At Topeka, Washburn Negative won from Baker 2 to 1.

**Peru State Normal.** Peru. Non-Sectarian. I. G. Wilson, Coach and Mgr. Primary system.

**Triangular**—Kearney State Normal, Kearney, Nebr., and Wayne State Normal, Wayne, Nebr. (See Kearney above.)

**University of Nebraska.** Lincoln. Non-Sectarian. M. M. Fogg, Coach. J. R. Forbes, Mgr. 1912-13. Primary system.

**Pentangular**—Illinois, Iowa, Minnesota, and Wisconsin universities. Nebraska met Illinois and Wisconsin in 1913. Three men teams. Date—Dec. 13, 1913. Question—Resolved, that all corporations engaged in interstate commerce should be required to take out federal charters, it being conceded that such a requirement would be constitutional and that federal license shall not be available as an alternative plan. Decisions—At Lincoln, Nebraska Affirmative won from Illinois 2 to 1. At Madison, Nebraska Negative won from Wisconsin 2 to 1.

**Wayne State Normal.** Wayne. Non-Sectarian. No report 1913.

Triangular—Kearney State Normal, Kearney, Nebr., and Peru State Normal, Peru, Nebr. (See Kearney above.)

### NEW HAMPSHIRE

**Dartmouth College.** Hanover. Non-Sectarian. No report 1913.

Triangular—Brown University, Providence, R. I., and Williams College, Williamstown, Mass. (See under Mass. Williams College.)

### NEW JERSEY

**Princeton University.** Princeton. Non-Sectarian. H. F. Covington, Prof. Public Speaking, in charge. Paul F. Meyers, Mgr. 1912-13. John M. Colt, Mgr. 1913-14. Debates chosen by coaches in primaries and in literary societies.

Triangular—Harvard University, Cambridge, Mass., and Yale University, New Haven, Conn. Three men teams. Date—March 14, 1913. Question—Resolved, that the United States should exempt our coastwise trade from Panama Canal tolls. Decisions—At Princeton, Harvard Affirmative won from Princeton 3 to 0. At New Haven, Princeton Affirmative won 2 to 1. At Cambridge, Harvard Negative won from Yale Affirmative 3 to 0.

Freshmen triangular—Harvard Freshmen and Yale Freshmen. Three men teams. Date—May 2, 1913. Question—Resolved, that members of the president's cabinet should have seats and a voice in discussions in both houses of Congress. Decisions—At Princeton, Princeton Negative won from Yale. At Cambridge, Princeton Affirmative won from Harvard. At New Haven, Harvard Affirmative won from Yale.

**Rutgers College.** New Brunswick. Non-Sectarian. Prof. Livingston Barbour, Coach. Forensic committee manages. Primary system.

Triangular—Lafayette College, Easton, Pa., and Swarthmore College, Swarthmore, Pa. Three men teams. Date—April 11, 1913. Question—Resolved, that the judges should be subject to recall by their electorate. Decisions—At New Brunswick,



Rutgers Affirmative won from Swarthmore 3 to 0. At Easton, Rutgers Negative won from Lafayette 3 to 0. At Swarthmore, Swarthmore Affirmative won from Lafayette 3 to 0.

### NEW YORK

**Colgate University.** Hamilton. Non-Sectarian. Elmer W. Smith, Prof. of Public Speaking, in charge. Frederick R. Newbauer, Mgr. 1912-13.

Annual Debate—St. Lawrence University, Canton, N. Y. Three men teams. Date—April 18, 1913. Place—Hamilton. Question—Resolved, that when an act passed under the police power of a state is held unconstitutional under the state constitution by the state courts, the people, after an ample interval for deliberation, shall have the opportunity to vote on the question whether they desire the act to become a law, notwithstanding such decision. Decision—Colgate Negative won 3 to 0.

Annual Debate—Bates College, Lewiston, Me. Three men teams. Date—April 25, 1913. Place—Hamilton. Question—Resolved, that the legislation exempting American coastwise trading vessels from Panama Canal tolls should be repealed. Decision—Bates Affirmative 3 to 0.

Triangular—Hamilton College, Clinton, N. Y., and Union College, Schenectady, N. Y. Three men teams. Date—Feb. 21, 1913. Question—Resolved, that a tariff for revenue only would materially reduce the present high cost of living. Decisions—At Hamilton, Colgate won from Hamilton College Affirmative 2 to 1. At Schenectady, Colgate Affirmative won from Union College 2 to 1. At Clinton, Hamilton College Negative won from Union College 3 to 0.

**Columbia University.** New York. Non-Sectarian. No report 1913.

Triangular—Cornell University, Ithaca, N. Y., and Pennsylvania University, Philadelphia, Pa. (See Cornell below.)

**Cornell University.** Ithaca. Non-Sectarian. J. A. Winans, Prof. of Public Speaking, in charge. H. G. Wilson, Mgr. 1912-13. Primary system.

Triangular—Columbia University, New York, and Pennsylvania

University, Philadelphia,, Pa. Three men teams. Date—March 7, 1913. Question—Resolved, that when an act passed under the police power of a state is held unconstitutional under the state constitution by the state courts, the people, after an ample interval for deliberation, shall have the opportunity to vote on the question whether they desire the act to become a law, notwithstanding such decision. Decisions—At Ithaca, Pennsylvania Negative won from Cornell 3 to 0. At New York City, Columbia Affirmative won from Cornell 3 to 0. At Philadelphia, Columbia Negative won from Pennsylvania 3 to 0.

Annual Debate—Union College, Schenectady, N. Y. Three men teams. Date—Feb. 7, 1913. Place—Schenectady. Question—The same as stated in the triangular above. Decision—Cornell Negative won 2 to 1.

Annual Debate—St. Lawrence University, Canton, N. Y. Three men teams. Date—Feb. 8, 1913. Place—Canton, N. Y. Question—Stated in the triangular above. Decision—St. Lawrence Affirmative won 2 to 1.

Annual Debate—University of Rochester, Rochester, N. Y. Three men teams. Date—Feb. 14, 1913. Place—Rochester, N. Y. Question—As stated in the triangular above. Decision—Cornell Affirmative 3 to 0.

Annual Debate—Washington and Jefferson College, Washington, Pa. Three men teams. Date—Feb. 22, 1913. Place—Washington, Pa. Question—As stated in the triangular above. Decision—Cornell Affirmative won 3 to 0.

Annual Debate—Georgetown College, Washington, D. C. Three men teams. Date—April 4, 1913. Place—Washington, D. C. Question—As stated in the triangular above. Decision—Georgetown Negative 3 to 0.

**Fordham University.** Fordham. Catholic. No report 1913.

Annual Debate—Boston College, Mass. (See under Mass.)

Annual Debate—Holy Cross College, Worcester, Mass. (See under Mass.)

**Hamilton College.** Clinton. Non-Sectarian. No Coach. Prof. Calvin L. Lewis, Mgr. Primary system.

Triangular—Colgate University, Hamilton, N. Y., and Union College, Schenectady, N. Y. (See Colgate above.)

**Triangu'ar**—Bowdoin College, Brunswick, Me., and Wesleyan University, Middletown, Conn. Three men teams. Date—April 10, 1913. Question—Resolved, that tariff for revenue only would materially reduce the high cost of living. Decisions—At Clinton, Hamilton Affirmative won from Wesleyan 2 to 1. At Brunswick, Bowdoin Affirmative won from Hamilton 3 to 0. At Middletown, Wesleyan Affirmative won from Bowdoin 3 to 0.

**New York University.** New York City. Non-Sectarian. Benj. P. Dewitt, Coach. B. R. Silver, Mgr. 1912-13. Primary system.

**Annual Debate**—Syracuse University, Syracuse, N. Y. Three men teams. Date—Dec. 12, 1913. Place—Syracuse. Question—Resolved, that Congress should create a commission with powers similar to those of the Interstate Commerce Commission to control industrial corporations engaged in interstate commerce. Decision—Syracuse Negative won 3 to 0.

**Rochester, University of.** Rochester. Non-Sectarian. E. Y. Frazier and Frank Stockton, Coaches. E. B. Price, Mgr. 1912-13. Debaters chosen by coaches in primary trials. No report 1913.

**Annual Debate**—Cornell University, Ithaca, N. Y. Three men teams. (See Cornell University above.)

**St. Lawrence University.** Canton. Non-Sectarian. No report 1913.

**Annual Debate**—Cornell University, Ithaca, N. Y. (See Cornell above.)

**Annual Debate**—Colgate University, Hamilton, N. Y. (See Colgate above.)

**Syracuse, University of.** Syracuse. Non-Sectarian. S. L. Kennedy, Coach. Primary system.

**Annual Debate**—New York University, New York City. (See New York University above.)

**Dual Debate**—Yale University, New Haven, Conn. Three men teams. Date—Dec. 3, 1913. Question—Resolved, that all corporations doing an interstate business should be regulated by a commission with powers similar to the Interstate Commerce Commission. Decisions—At Syracuse, Syracuse Affirmative won 3 to 0. At New Haven, Yale Affirmative won 2 to 1.

**Union College.** Schenectady. Non-Sectarian. No report 1913.  
**Triangular—Colgate University,** Hamilton, N. Y., and Hamilton College, Clinton, N. Y. (See Colgate University above.)

## NORTH CAROLINA

**Davidson College.** Davidson. Presbyterian. No Coach. W. S. Golden, Mgr. 1912-13. Debaters chosen by literary societies.

**Annual Debate—Wake Forest College,** Wake Forest, N. C. (See Wake Forest below.)

**Trinity College.** Durham. Methodist Episcopal South. Holland Holton, Coach and Mgr. Primary system.

**Annual Debate—Swarthmore College,** Swarthmore, Pa. Three men teams. Date—March 1, 1913. Place—Durham. Question—Resolved, that the judiciary should be subject to the recall by their electorate. Decision—Trinity Negative 3 to 0.

**Annual Debate—University of South Carolina,** Columbia, S. C. Three men teams. Date—March 25, 1913. Place Columbia. Question—Resolved, that the United States should grant independence to the Philippine Islands. Decision—Trinity Affirmative 2 to 1.

**University of North Carolina.** Chapel Hill. Non-Sectarian. No Coach. Debate Union manages. J. T. Pritchett, Sec. 1913-14. Primary system.

**Triangular—Johns Hopkins University,** Baltimore, Md., and University of Virginia, Charlottesville. Two men teams. Date—April 19, 1913. Question—Resolved, that without reference to the Hay-Pauncefote treaty tolls for the use of the Panama Canal should be the same for the merchant vessels of all nations. Decisions—At Charlottesville, University of N. Carolina Affirmative won from Johns Hopkins 3 to 2. At Baltimore, North Carolina Negative won from Virginia 3 to 2. At Chapel Hill, Johns Hopkins won from Virginia 5 to 0.

**Wake Forest College.** Wake Forest. No Coach. Rowland Shaw Pruette, Mgr. 1912-13. Primary system.

**Annual Debate—Davidson College,** Davidson, N. C. Two men teams. Date—March 24, 1913. Place—Winston, N. C. Question—Resolved, that a more easy and expeditious method

of amending the United States constitution should be adopted.  
Decision—Davidson Affirmative 3 to 0.

### NORTH DAKOTA

**Fargo College.** Fargo. Non-Sectarian. B. W. Brown, Coach. A. T. Aronson, Mgr. 1912-13 Primary system. No report 1913.

**Triangular—University of North Dakota, Grand Forks, and University of Manitoba, Canada.** (See University of N. Dakota immediately below.)

**University of North Dakota.** Grand Forks. Non-Sectarian. John Adams Taylor, Inst. Public Speaking, Dr. J. E. Boyle, Prof. Pol. Econ., Coaches. Thorvald Dahl, Mgr. 1912-13. 305 S. Third St. Primary trials in literary societies.

**Triangular—Fargo College, Fargo, N. Dak., and University of Manitoba, Canada.** Three men teams. Date—February 28, 1913. Question—Resolved, that for the United States and Canada the responsible form of cabinet government is better than the presidential form. (It being understood that the question involves merely a comparison of the two systems and does not embrace the matter of adoption.) Decisions—At Grand Forks, N. Dakota Affirmative won from Manitoba 2 to 1. At Fargo, Fargo Affirmative won from N. Dakota 3 to 0. At Manitoba, no report.

### OHIO

**Ashland College.** Ashland. Brethren. No report 1913.

**Annual Debate—Otterbein University, Westerville, O.** (See Otterbein below.)

**Denison University.** Granville. Baptist. Prof. C. E. Goodell, Coach. Primary system. No report 1913.

**Triangular—Ohio University, Athens, and Miami University, Oxford, O.** (See Ohio University below.)

**Heidelberg University.** Tiffin. Reform in U. S. Prof. H. G. Houghton, Coach. D. H. Johnson, Mgr. 1913-14. Primary system.

**Triangular—Otterbein University, Westerville, O., and Mt. Union College, Alliance, O.** Three men teams. Date—March 14,

1913. Question—Resolved, that the commission form of government is desirable for all cities of the United States having a population of 5,000 or over. (Constitutionality conceded.)

Decisions—At Heidelberg, Heidelberg Negative won from Otterbein 2 to 1. At Alliance, Heidelberg Affirmative won from Mt. Union 2 to 1. At Westerville, Otterbein Negative won from Mt. Union 3 to 0.

Annual Debate—Muskingum College, New Concord, O. Three men teams. Date—April 23, 1913. Place—Heidelberg. Question—Resolved, that the commission form of government is desirable for all cities of the United States having a population of 5,000 or over. (Constitutionality conceded.) Decision—Heidelberg Negative 3 to 0.

**Marietta College.** Marietta. Non-Sectarian. No report 1913.

Annual Debate—West Virginia Wesleyan, Buckhannon. (See W. Va. Wesleyan.)

**Miami University.** Oxford. Non-Sectarian. Arthur L. Gates, Prof. of Public Speaking, Coach. Charles Sweigart, Mgr. 1912-13. Primary system. No report 1913.

Triangular—Ohio University, Athens, O., and Denison University, Granville, O. (See Ohio University below.)

**Mt. Union College.** Alliance. Methodist. No Coach. Prof. Herbert D. Simpson in charge. Primary system. No report 1913.

Triangular—Heidelberg University, Tiffin, O., and Otterbein University, Westerville, O. (See Heidelberg University above.)

Triangular—Muskingum College, New Concord, O., and Geneva College, Beaver Falls, Pa. (See Muskingum below and Geneva under Penn.)

**Muskingum College.** New Concord. United Presbyterian. Wilbur C. Dennis, Coach. Paul Murphy, Mgr. 1912-13. W. C. Dennis, Mgr. 1913-14. Primary system.

Triangular—Otterbein University, Westerville, O., and Wittenberg College, Springfield, O. Three men teams. Date—April 4, 1913. Question—Resolved, that the commission form of municipal government is desirable for all cities of the United States having a population of 5,000 or over. (Constitutionality granted.) Decisions—At Muskingum, New Concord, Otterbein Negative won from Muskingum 3 to 0.

At Wittenberg, Springfield, Muskingum Negative won from Wittenberg 3 to 0. At Westerville, Otterbein Affirmative won from Wittenberg 3 to 0.

**Triangular**—Mt. Union College, Alliance, O., and Geneva College, Beaver Falls, Pa. Three men teams. Date—Mt. Union-Muskingum, April 12; Geneva-Muskingum, April 22; Mt. Union-Geneva, March 28, 1913. Question—Resolved, that the commission form of municipal government is desirable for all cities of the United State having a population of 5,000 or over. (Constitutionality conceded.) Decisions—At Muskingum, New Concord, Muskingum Affirmative won from Mt. Union 2 to 1. At Geneva, Beaver Falls, Muskingum Negative won 2 to 1. At Mt. Union, Alliance, Geneva Negative won 3 to 0.

**Annual Debate**—Heidelberg University, Tiffin, O. (See Heidelberg above.)

**Oberlin College.** Oberlin. Non-Sectarian. No report 1913.

**Triangular**—Ohio Wesleyan University, Delaware, O., and Western Reserve University, Cleveland, O. (See Ohio Wesleyan below.)

**Ohio State University.** Columbus. Non-Sectarian. C. E. Blanchard, Coach, 1010 Col. Savings & Trust Bldg. Primary system.

**Triangular**—Indiana University and Illinois University. Three men teams. Date—March 14, 1913. Question—Resolved, that the recall of state and local judges by popular vote is desirable. Decisions—At Columbus, Ohio Affirmative won from Illinois 2 to 1. At Bloomington, Ohio Negative won from Indiana 2 to 1. At Urbana, Indiana Negative won from Illinois 2 to 1.

**Ohio University.** Athens. Non-Sectarian. Prof. H. R. Pierce, Coach. Hower Cherrington, Mgr. 1913-14. Primary system.

**Triangular**—Denison University, Granville, O., and Miami University, Oxford, O. Three men teams. Date—March 15, 1913. Question—Resolved, that a commission form of government should be adopted by all cities in Ohio having a population of 15,000 or more. Decisions—At Athens, Ohio Negative won from Miami 3 to 0. At Granville, Denison Negative

won from Ohio 2 to 1. At Oxford, Miami Negative won from Denison 3 to 0.

**Ohio Wesleyan University.** Delaware. Methodist Episcopal. Robert I. Fulton, Prof. of Public Speaking, in charge. H. G. Hageman, Pres. Deb. Council, Mgr. 1912-13. Primary system.

**Triangular**—Oberlin College, Oberlin, O., and Western Reserve University, Cleveland, O. Three men teams. Date—Jan. 17, 1913. Question—Resolved, that the conservation of human resources involved in the employment of labor in the United States demands greater centralization of power in the federal Government. (Constitutionality conceded.) Decisions—At Delaware, Wesleyan Affirmative won from Reserve 3 to 0. At Oberlin, Oberlin Affirmative won from Wesleyan 2 to 1. At Cleveland, Oberlin Negative won from Reserve 2 to 1.

**Dual Debate**—University of Cincinnati, Cincinnati. Three men teams. Date—Feb. 17, 1913. Question—Resolved, that the conservation of human resources involved in the employment of labor in the United States demands greater centralization of power in the federal government. (Constitutionality conceded.) Decisions—At Delaware, Wesleyan Affirmative won 3 to 0. At Cincinnati, Wesleyan Negative won 3 to 0.

**Otterbein University.** Westerville. United Brethren. H. J. Heltman, Prof. of Oratory, Coach. R. E. Penick, Mgr. 1912-13. J. R. Schutz, Mgr. 1913-14. Primary system.

**Triangular**—Heidelberg University, Tiffin, O., and Mt. Union College, Alliance, O. (See Heidelberg above.)

**Triangular**—Muskingum College, New Concord, O., and Wittenberg College, Springfield, O. (See Muskingum above.)

**Annual Debate**—Ashland College, Ashland, O. Three men teams. Date—April 18, 1913. Place—Ashland. Question—Resolved, that the commission form of municipal government is desirable for all cities of the United States having a population of 5,000 or more. (Constitutionality granted.) Decision—Otterbein Negative won 3 to 0.

**University of Cincinnati.** Cincinnati. Non-Sectarian. No report 1913.

**Dual Debate**—Ohio Wesleyan University, Delaware. (See above.)



**Annual Debate**—Earlham College, Richmond, Ind. (See Earlham, Ind.)

**Western Reserve University.** Cleveland. Non-Sectarian. Howard S. Woodward, Coach. M. S. Nichols, Mgr. 1912-13. Harold L. Emerson, Mgr. 1913-14, 98 Wadena St. Primary system.

**Triangular**—Oberlin College, Oberlin, O., and Ohio Wesleyan University, Delaware, O. Three men teams. Date—Jan. 17, 1913. Question—Resolved, that the conservation of human resources involved in the employment of labor in the United States demands greater centralization of power in the federal government. (Constitutionality conceded.) Decisions—At Cleveland, Oberlin Negative won from Reserve 2 to 1. At Delaware, Wesleyan Affirmatives won from Reserve 3 to 0. At Oberlin, Oberlin Affirmative won from Wesleyan 2 to 1.

**Wilberforce University.** Wilberforce. A. Methodist Episcopal. No report 1913.

**Annual Debate**—Fisk University, Nashville, Tenn. (See under Fisk, Tenn.)

**Wittenberg College.** Springfield. Lutheran. No Coach. Lloyd M. Wallick, Capt. Debate teams, 1912-13. Debaters chosen in literary societies.

**Triangular**—Muskingum College, New Concord, O., and Otterbein University, Westerville, O. Three men teams. Date—April 4, 1913. Question—Resolved, that the commission form of government should be adopted in all cities of the United States having a population of 5,000 or over. (Constitutionality conceded.) Decisions—At Springfield, Muskingum Negative won from Wittenberg 3 to 0. At Westerville, Otterbein Affirmative won from Wittenberg 3 to 0. At New Concord, Otterbein Negative won from Muskingum 3 to 0.

**Wooster, University of.** Wooster. Presbyterian. Delbert G. Lean, Public Speaking, and R. G. Caldwell, Coaches. Primary system.

**Triangular**—Allegheny College, Meadville, Pa., and University of Pittsburg, Pittsburg, Pa. Three men teams. Date—March 15, 1913. Question—Resolved, that the principle of compulsory arbitration should be adopted by the several states for the settlement of all labor disputes. (Constitutionality

waived.) Decisions—At Wooster, Wooster Affirmative won from Pittsburg 2 to 1. At Meadville, Wooster Negative won from Allegheny 2 to 1. At Pittsburg, Allegheny Negative won from Pittsburg 3 to 0.

### OKLAHOMA

**Northwestern Normal.** Alva. Non-Sectarian. No report 1913. Annual Debate—Missouri State Normal (Second District), Warrensburg. (See under Missouri.)

**Oklahoma Agricultural and Mechanical College.** Stillwater. Non-Sectarian. Ralph E. Tieje, Coach and Mgr. Primary system.

**Triangular—Colorado Agricultural College, Ft. Collins, and Kansas Agricultural College, Manhattan.** Two men teams. Date—April 4, 1913. Question—Resolved, that the constitutions of the various states should be so amended as to subject the decisions of the State Supreme Courts on constitutional questions to recall by popular vote. Decisions—At Stillwater, Oklahoma Affirmative won from Colorado 2 to 1. At Manhattan, Kansas Affirmative won from Oklahoma 3 to 0. At Ft. Collins, Kansas Negative won from Colorado 2 to 1.

**Annual Debate—Oklahoma Methodist University, Guthrie.** Three men teams. Date—April 18, 1913. Place—Guthrie. Question—Resolved, that the president of the United States should be elected for a term of six years and for one term only. Decision—Oklahoma Methodist Affirmative 3 to 0.

**Oklahoma Baptist College.** Blackwell. Baptist. Ernest S. Abbott, Coach. Lester G. Lacy, Mgr. 1912-13. Primary system.

**Annual Debate—Southwestern College, Winfield, Kansas.** Three men teams. Date—April 8, 1913. Place—Blackwell. Question—Resolved, that there should be compulsory federal arbitration in the settlement of labor disputes. (Constitutionality granted.) Decision—Oklahoma Baptist Affirmative won 2 to 1.

**Annual Debate—Oklahoma Methodist University, Guthrie.** Two men teams. Date—April 18, 1913. Place—Blackwell. Question—Resolved, that the president of the United States should

be elected for a term of six years and be ineligible for re-election. Decision—Oklahoma Baptist Affirmative won 3 to 0.

**Oklahoma Methodist University.** Guthrie. Methodist. No report 1913.

Annual Debate—Oklahoma A. & M. College, Stillwater. (See above.)

Annual Debate—Oklahoma Baptist College, Blackwell. (See immediately above.)

**University of Oklahoma.** Norman. Non-Sectarian. Burton F. Tanner, Coach. Paul Walker, Mgr. 1912-13. Primary system.

Triangular—Colorado University, Boulder, and Kansas University, Lawrence. Three men teams. Date—April 11, 1913. Question—Resolved, that a policy of federal regulation and control of trusts should be substituted for the Sherman Anti-Trust law. Decisions—At Norman, Colorado Negative won from Oklahoma 2 to 1. At Lawrence, Kansas Affirmative won from Oklahoma 2 to 1. At Boulder, Colorado Affirmative won from Kansas 3 to 0.

## OREGON

**Albany College.** Albany. Presbyterian. No Coach. A. E. McLean, Mgr. 1912-13. Primary system.

Triangular—McMinneville College, McMinneville, Ore., and Pacific College, Newberg, Ore. Two men teams. Dates—March 28, April 4, April 18, 1913. Question—Resolved, that capital punishment should be abolished in Oregon. Decision—At Albany, Albany Negative won from McMinneville 3 to 0. At McMinneville, McMinneville Affirmative won from Pacific College 3 to 0. At Newberg, Albany College Affirmative won from Pacific 3 to 0.

**McMinneville College.** McMinneville. Baptist. Prof. J. Sherman Wallace, Coach. John F. Mason, Mgr. 1912-13. Primary system.

Triangular—Albany College, Albany, Ore., and Pacific College, Newberg, Ore. (See Albany College immediate above.)

**Pacific College.** Newberg. No report 1913.

**Triangular**—Albany College, Albany Ore., and McMinneville College, McMinneville, Ore. (See Albany College above.)

**University of Oregon.** Eugene. Non-Sectarian. Robert W. Prescott, Coach. A. M. Geary, Mgr. 1912-14. Debaters chosen by coaches in primary.

**Triangular**—Leland Stanford University, Palo Alto, Calif., and University of Washington, Seattle, Wash. Two men teams. Date—March 28, 1913. Question—Resolved, that the immigration of unskilled laborers of the Slavonic, Hellenic, and Italic races of Eastern and Southeastern Europe should be prohibited. Decisions—At Eugene, Oregon Affirmative won from Washington 3 to 0. At Palo Alto, Oregon Negative won from Stanford 3 to 0. At Seattle, Washington Affirmative won from Stanford 2 to 1.

**Annual Debate**—University of Utah, Salt Lake City. Two men teams. Date—April 9, 1913. Place—Salt Lake City. Question—Resolved, that our general policy of regulating Oriental immigration should be extended by the United States to the Slavonic, Hellenic and Italic races of Eastern and Southeastern Europe. Decision—Oregon Affirmative won 2 to 1.

**Annual Debate**—(Girls) University of Washington, Seattle. Three on team. Date—May 24, 1913. Question—Exclusion of unskilled immigrant laborers. Decision—Oregon Negative 3 to 0.

**Willamette University.** Salem. Methodist Episcopal. Prof. J. C. Cooley, Coach. E. Paul Todd, Mgr. 1912-13. Ivan McDaniels, Mgr. 1913-14. Primary system.

**Dual Debate**—University of Idaho, Moscow. Two men teams. Date—April 4, 1913. Question—Not reported. Decisions—At Salem, Idaho Negative won 3 to 0. At Moscow, Willamette Negative won 2 to 1.

## PENNSYLVANIA

**Allegheny College.** Meadville. Methodist Episcopal. Stanley S. Swartley, Dept. of English, in charge. James R. MacGowan, Mgr. 1912-13. Primary system.

**Triangular**—University of Pittsburg, Pittsburg, Pa., and University of Wooster, Wooster, Ohio. Three men teams. Date—March 14, 1913. Question—Resolved, that the several

states should adopt the principle of compulsory arbitration for the settlement of all labor disputes. Constitutionality conceded. Decisions—At Meadville, Wooster Negative won from Allegheny 2 to 1. At Pittsburg, Allegheny Negative won from Pittsburg 3 to 0. At Wooster, Wooster Affirmative won from Pittsburg 2 to 1.

**Bucknell University.** Lewisburg. Baptist. No coach. Bromley Smith in charge. Primary system.

**Dual Debate—**Pennsylvania College, Gettysburg, Pa. Two men teams. Date—March 14, 1913. Question—Resolved, that the present scientific trend of education is opposed to the principles of religious, political, and social progress and stability. Decisions—Bucknell Affirmative won at Lewisburg 3 to 0. At Gettysburg, Pennsylvania College Affirmative 2 to 1.

**Dickinson College.** Carlisle. Non-Sectarian. No coach. M. G. Filler, Fac. Deb. Chr. 1912-13. Leon G. Prince, Fac. Deb. Chr. 1913-14. Primary trials in literary societies.

**Quadrangular—**Franklin and Marshall College, Lancaster, Pa., Pennsylvania State College, State College, Pa., and Swarthmore College, Swarthmore, Pa. Three men teams. Date—March 7, 1913. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality conceded. Decisions—At Carlisle, Dickinson Negative met Penn. State winning 3 to 0. At Lancaster, Dickinson Affirmative met Franklin and Marshall losing 3 to 0.

**Franklin and Marshall.** Lancaster. Ref. in U. S. Prof. A. V. Hiester, Coach. No report 1913.

**Quadrangular—**Dickinson College, Carlisle, Pa., Penn. State College, State College, and Swarthmore College, Swarthmore, Pa. Franklin and Marshall met Dickinson and Swarthmore 1913. Three men teams. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality conceded. Decisions—At Lancaster, Franklin and Marshall Negative won from Dickinson 3 to 0. At Swarthmore, Swarthmore Negative won from Franklin and Marshall 2 to 1.

**Geneva College.** Beaver Falls. Ref. Presbyterian. No coach. Various members of faculty give incidental assistance. A. R. McFarland, Mgr. 1912-13. Primary system.

**Triangular**—Muskingum College, New Concord, Ohio, and Mt. Union College, Alliance, Ohio. Three men teams. Date—Mt. Union-Geneva, March 28, 1913. Muskingum-Geneva, April 22, 1913. Mt. Union-Muskingum, April 12, 1913. Question—Resolved, that the commission plan of municipal government should be adopted by all cities in the United States of 5,000 population or over. Constitutionality conceded. Decisions—At Geneva College, Beaver Falls, Muskingum Negative won 2 to 1. At Mt. Union, Alliance, Geneva Negative won 3 to 0. At Muskingum, New Concord, Muskingum won from Mt. Union on Affirmative 2 to 1.

**Grove City College.** Grove City, Pa. Non-Sectarian. No report 1913.

**Annual Debate**—West Virginia Wesleyan, Buckhannon. (See W. Va. Wesleyan.)

**Juniata College.** Huntingdon. Baptist. No coach. A. M. Rejlogle, Mgr. 1912-13. John A. Ake, Mgr. 1913-14. Primary trials in literary societies.

**Annual Debate**—Lebanon Valley College, Annville, Pa. Three men teams. Date— —. Place—Huntingdon. Question—Resolved, that a new constitution should be framed for the commonwealth of Pennsylvania by a convention properly called for the purpose. Decision—Juniata Affirmative 3 to 0.

**Lafayette College.** Easton. Presbyterian. Prof. Allan Roberts, Coach. R. F. Shaner, Mgr. 1912-13. Primary trials in literary societies.

**Triangular**—Rutgers College, New Brunswick, N. J., and Swarthmore College, Swarthmore, Pa. Three men teams. Date—April 11, 1913. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality waived. Decisions—At Easton, Rutgers Negative won from Lafayette 3 to 0. At Swarthmore, Swarthmore Affirmative won from Lafayette 3 to 0. At New Brunswick, Rutgers Affirmative won from Swarthmore 2 to 1.

**Lebanon Valley College.** Annville. United Brethren. No report 1913.

**Annual Debate**—Juniata College, Huntingdon, Pa. (See above.)

**Pennsylvania College.** Gettysburg. Lutheran. Franklin W.

Moser, Coach. C. F. Sanders, Mgr. 1912-13. Primary system. No report 1913.

Dual Debate—Bucknell University, Lewisburg, Pa. (See above.)

**Pennsylvania State College.** State College. Non-Sectarian. J. H. Frizzell, Eng. Dept., Coach. Debaters chosen by coaches in primary.

Quadrangular—Franklin and Marshall, Lancaster, Pa., Dickinson College, Carlisle, Pa., and Swarthmore College, Swarthmore, Pa. Penn. State met Dickinson and Swarthmore in 1913. Three men teams. Date—March 7, 1913, and March 8, 1913. Question—Resolved, that judges should be subject to recall by their electorate. Decisions—At Carlisle, Dickinson College Negative won from Penn State 3 to 0. At State College, Penn. State Negative won from Swarthmore 3 to 0.

**Pittsburg, University of.** Pittsburg. Non-Sectarian. F. H. Lane, Coach. No report 1913.

Triangular—Allegheny College, Meadville, Pa., and University of Wooster, Wooster, Ohio. (See Allegheny above.)

**Swarthmore College.** Swarthmore. Non-Sectarian. Philip M. Hicks, Coach. Raymond S. Bye, Mgr. 1912-14. Primary system.

Quadrangular—Dickinson College, Carlisle, Pa., Franklin and Marshall, Lancaster, Pa., and Penn. State College, State College, Pa. Swarthmore met Franklin and Marshall and Penn State in 1913. Three men teams. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality conceded. Decisions—At Swarthmore, Swarthmore Negative won from Franklin and Marshall 2 to 1. At State College, State College Negative won from Swarthmore 3 to 0.

Triangular—Lafayette College, Easton, Pa., and Rutgers College, New Brunswick, N. J. (See Lafayette above, and Rutgers under New Jersey.)

Annual Debate—Trinity College, Durham, N. Carolina. Three men teams. Date—March 1, 1913. Place—Durham, N. C. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality conceded. Decision—Trinity Negative won 3 to 0.

Annual Debate—Westminster College, New Wilmington, Pa.

Three men teams. Date—March 20, 1913. Place—New Wilmington. Question—Resolved, that the judiciary should be subject to recall by their electorate. Constitutionality conceded. Decision—Swarthmore Negative won 2 to 1.

**University of Pennsylvania.** Philadelphia. Non-Sectarian. F. A. Child, Coach. C. S. Thompson, Mgr. 1912-13. R. G. Adams, Mgr. 1913-14, 4226 Pine St. Primary system.

**Triangular—Columbia University, New York City, and Cornell University, Ithaca, N. Y.** Three men teams. Date—March 7, 1913. Question—Recall of judicial decisions. (See Cornell, New York, for statement.) Decisions—At Philadelphia, Columbia Negative won from Pennsylvania 3 to 0. At Ithaca, Pennsylvania Negative won from Cornell 3 to 0. At New York, Columbia Affirmative won from Cornell 3 to 0.

**Washington and Jefferson College.** Washington. Non-Sectarian. Prof. Wilbur Jones Kay, Coach. Debaters chosen by coaches in primary.

**Annual Debate—Cornell University, Ithaca, N. Y.** (See under New York.) Cornell won 3 to 0.

**Westminster College.** New Wilmington. United Presbyterian. Elbert R. Moses, Coach. Ralph Miller, Mgr. 1912-13. Primary system. No report 1913.

**Annual Debate—Swarthmore College, Swarthmore, Pa.** (See above.)

## RHODE ISLAND

**Brown University.** Providence. Non-Sectarian. No report 1913.

**Triangular—Dartmouth College, Hanover, N. H., and Williams College, Williamstown, Mass.** (See Williams College, Mass.)

## SOUTH CAROLINA

**University of South Carolina.** Columbia. Non-Sectarian. No coach. Leonard T. Baker, Fac. Member, in charge. J. D. Brandenburg, Sec. Deb. Council. No report 1913.

**Annual Debate—Trinity College, Durham, N. C.** (See under N. Carolina.)



## SOUTH DAKOTA.

**Dakota Wesleyan University.** Mitchell. Methodist Episcopal. George S. Dalgety and J. L. Seaton, Coaches. J. L. Seaton, Mgr. Debaters chosen by coaches in primary.

**Triangular—Carleton College, Northfield, Minn., and Ripon College, Ripon, Wis.** Three men teams. Date—April 25, 1913. Question—Resolved, that all corporations engaged in interstate commerce should be required to take out a federal charter on such terms as Congress may, by law, prescribe. Constitutionality conceded. Decisions—At Mitchell, Ripon College Negative won from Dakota Wesleyan 3 to 0. At Northfield, Carleton College Affirmative won from Wesleyan 3 to 0. At Ripon, Carleton College Negative won 2 to 1 from Ripon.

**Huron College.** Huron. Presbyterian. E. L. Hunt, Coach. Chas. J. Lundberg, Mgr. 1912-13. Floyd Reeves, Mgr. 1913-14. Debaters chosen by coaches.

**Dual Debate—South Dakota State College, Brookings.** Three men teams. Date—April 4, 1913. Question—Resolved, that the plan of banking reform suggested by the National Monetary Commission should be adopted by Congress. Constitutionality waived. Decisions—At Huron, Huron College Affirmative won 2 to 1. At Brookings, State College Affirmative won 2 to 1.

**Annual Debate—Yankton College, Yankton, S. Dak.** Three men teams. Date—April 25, 1913. Place—Huron. Question—Resolved, that the plan of banking reform suggested by the National Monetary Commission should be adopted by Congress. Constitutionality waived. Decision—Yankton Affirmative won 2 to 1.

**South Dakota State College.** Brookings. Non-Sectarian. No report 1913.

**Dual Debate—Huron College, Huron, S. Dak.** (See immediately above.)

**University of South Dakota.** Vermillion. Non-Sectarian. Clarence E. Lyon, Coach and Mgr. Primary system.

**Annual Debate—Drake University, Des Moines, Ia.** Three men teams. Date—March 7, 1913. Place—Vermillion. Question

—Resolved, that the Sherman Anti-Trust law should be repealed. Decision—Drake Affirmative won 2 to 1.

Annual Debate—Creighton University, Omaha, Nebr. Three men teams. Date—March 14, 1913. Place—Vermillion. Question—Resolved, that the Sherman Anti-Trust law should be repealed. Decision—S. Dakota Affirmative won 3 to 0.

Annual Debate—(Girls) Yankton College, Yankton, S. Dak. Three on teams. Date—May 8, 1913. Place—Vermillion. Question—Resolved, that immigration to the United States should be further restricted by means of a literacy test. Decision—S. Dakota Negative won 3 to 0.

Yankton College. Yankton. Congregational. L. C. Sorrell, Coach, 916 Walnut St. Debaters chosen in literary societies.

Annual Debate—Huron College, Huron, S. Dak. Three men teams. (See Huron above.)

Annual Debate—(Girls) University of S. Dakota, Vermillion. (Reported by University, but not by Yankton.) (See Univ. of S. Dak. above.)

Annual Debate—William Jewell College, Liberty, Mo. Three men teams. Date—April 25, 1913. Place—Yankton. Question—Resolved, that the plan of banking and currency reform suggested by the National Monetary Commission should be adopted by Congress. Decision—William Jewell Affirmative won 2 to 1.

## TENNESSEE

Carson and Newman College. Jefferson City. Baptist. R. S. Ogle, Coach and Mgr. Debaters chosen in primaries in literary societies.

Dual Debate—Maryville College, Maryville, Tenn. Three on teams. Date—May 1, 1913. Question—Resolved, that the United States should have a ministerial form of cabinet government based on the English plan. Decisions—At Jefferson City, Carson and Newman Affirmative won 3 to 0. At Maryville, Carson and Newman Affirmative won 2 to 1.

Fisk University. Nashville. Non-Sectarian. Dora A. Scribner, Eng. Dept., in charge. Robert W. Banks, Mgr. 1912-13. Debaters chosen by coaches in primary.

Annual Debate—Wilberforce University, Wilberforce, Ohio.

Two men teams. Date—April 4, 1913. Place—Nashville. Question—Resolved, that the United States tariff should be reduced to the basis of tariff for revenue only. Decision—Wilberforce Affirmative won 2 to 1.

Annual Debate—Atlanta University, Atlanta, Ga. Two men teams. Date—April 4, 1913. Place—Atlanta. Question—Resolved, that the United States tariff should be reduced to the basis of tariff for revenue only. Decision—Fisk Affirmative won 2 to 1.

Knoxville College. Knoxville. United Presbyterian. Prof. Frank Hiner, Coach. Debaters chosen by coach. No report 1913.

Triangular—Talladega College, Talladega, Ala., and Atlanta Baptist College, Atlanta, Ga. (See Talladega, Ala.)

University of Tennessee. Knoxville. Non-Sectarian. Charles B. Burke, Mgr. 1912–13. Primary system.

Pentangular—Universities of Arkansas, Louisiana, Mississippi, and Texas. Tennessee met Arkansas and Texas in 1913. Two men teams. Date—April 11, 1913. Question—Resolved, that the plan for a national reserve association as proposed by the United States Monetary Commission offers a desirable remedy for the defects in our banking and currency systems. Decisions—At Nashville, Tennessee Affirmative won from Texas 2 to 1. At Fayette, Arkansas Affirmative won from Tennessee 2 to 1.

University of the South. Sewanee. Protestant Episcopal. Dr. J. M. McBride, Coach. Randolph Leigh, Mgr. 1912–13. Primary system. No report 1913.

Annual Debate—University of Alabama, Tuscaloosa. (See Alabama.)

Vanderbilt University. Nashville. Methodist Episcopal. Prof. A. M. Harris, Coach. G. W. Follin, Sec. Debate Council 1912–13. Debaters chosen by coach and literary societies. No report 1913.

Annual Debate—University of Alabama, Tuscaloosa. (See Alabama.)

## TEXAS

**Baylor University.** Waco. Baptist. No coach. C. P. Atwood, Mgr. 1912-13. Primary trials in literary societies.

**Annual Debate—Wake Forest College,** Wake Forest, N. Carolina. (See under N. Carolina.)

**Annual Debate—Ouachita College,** Arkadelphia, Arkansas. Two men teams. Date—April 23, 1913. Place—Waco. Question—Resolved, that the Aldrich plan of banking reform should be adopted by the United States. Decision—Ouachita Negative won 2 to 1.

**Annual Debate—Southwestern University,** Georgetown, Texas. Two men teams. Date—May 5, 1913. Place—Waco. Question—Resolved, that Texas should adopt the Initiative, Referendum, and Recall, the Recall of Judges being excepted. Decision—Baylor Negative won 3 to 0.

**Southwestern University.** Georgetown. Methodist Episcopal. John R. Pelsma, Coach. J. B. Miliken, Mgr. 1912-13. H. K. Moorehead, Mgr. 1913-14. Debaters chosen by literary societies.

**Triangular—Texas Christian University,** Ft. Worth, Tex., and **Trinity University,** Waxahachie, Tex. Three men teams. Date—Jan. 31, 1913. Question—Resolved, that that form of government known as the Initiative, Referendum, and Recall, the recall of judges excepted, should be adopted by Texas. Decisions—At Georgetown, Southwestern Affirmative won from Trinity 3 to 0. At Ft. Worth, Texas Christian Affirmative won from Southwestern 2 to 1. At Waxahachie, Trinity Affirmative won from Texas Christian 3 to 0.

**Annual Debate—Baylor University,** Waco, Texas. (See Baylor above.)

**Texas Christian University.** Ft. Worth. Disciples. No report 1913.

**Triangular—Southwestern University,** Georgetown, Tex., and **Trinity College,** Waxahachie, Tex. (See Southwestern immediately above.)

**Trinity College.** Waxahachie. Presbyterian. No report 1913.

**Triangular—Southwestern University,** Georgetown, Tex., and

**Texas Christian University, Ft. Worth, Tex.** (See Southwestern above.)

**University of Texas. Austin.** Non-Sectarian. E. D. Shurter and C. C. Taylor, Coaches. E. D. Shurter, permanent faculty manager. Primary system.

**Pentangular—Universities of Arkansas, Louisiana, Mississippi, and Tennessee.** Texas met Mississippi and Tennessee in 1913. Two men teams. Date—April 11, 1913. Question—Resolved, that the plan for a national reserve association as proposed by the United States Monetary Commission offers a desirable remedy for the defects in our banking and currency systems. Decisions—At Austin, Texas Affirmative won from Mississippi 3 to 0. At Knoxville, Tenn., Tennessee Affirmative won from Texas 2 to 1.

**Triangular—Universities of Colorado and Missouri.** Two men teams. Date—April 18, 1913. Question—Resolved, that a policy of compulsory old age insurance should be adopted by our federal government, constitutionality waived. Decisions—At Austin, Colorado Negative won 2 to 1. At Columbia, Texas Negative won from Missouri 3 to 0. At Boulder, Missouri Negative won 2 to 1.

## UTAH

**University of Utah. Salt Lake.** Non-Sectarian. No report 1913.

**Annual Debate—University of Colorado, Boulder, Colo.** (See under Colorado.)

**Annual Debate—University of Oregon, Eugene.** (See Oregon.)

## VIRGINIA

**Emory and Henry College. Emory.** Methodist Episcopal South. J. S. MacDonald, Sec. Debate Council, Mgr. 1912-13. No report 1913.

**Annual Debate—Emory College, Oxford, Ga.** (See Emory Coll., Georgia.)

**Annual Debate—Randolph-Macon College, Ashland, Va.** (See below.)

**Randolph-Macon College. Ashland.** Methodist. No coach.

E. P. Nicholson, Mgr. 1912-13. J. R. Spann, Mgr. 1913-14.  
Primary trials in literary societies.

**Annual Debate**—Emory and Henry College, Emory, Va. Two men teams. Date—March 7, 1913. Place—Roanoke, Va. Question—Resolved, that it would be to the best interests of our country to preserve the rights and powers of the individual states. Decision—Randolph-Macon Negative won 3 to 0.

**Triangular**—Richmond College, Richmond, Va., and William and Mary College, Williamsburg, Va. Two men teams. Date—March 7, 1913. Question—Resolved, that the United States was justified in exempting her coastwise vessels from payment of tolls for passage through the Panama Canal. Decisions—At Ashland, Randolph-Macon Affirmative won from William and Mary 2 to 1. At Richmond, Richmond Affirmative won from Randolph-Macon 2 to 1. At Williamsburg, Richmond College Negative won from William and Mary 3 to 0.

**Richmond College.** Richmond. Baptist. Dr. D. R. Anderson, Coach. J. A. George, Mgr. 1912-13. Primary trials in literary societies.

**Triangular**—Randolph-Macon College, Ashland, Va., and William and Mary College, Williamsburg, Va. (See Randolph-Macon above.)

**Roanoke College.** Salem. Lutheran. Dr. Randall, History and Econ., Coach. A. W. Norman, Mgr. 1912-13. Primary system.

**Annual Debate**—Virginia Polytechnic Institute, Blacksburg, Va. Three men teams. Date—April 4, 1913. Place—Salem. Question—Resolved, that the United States should so regulate tolls on shipping passing through the Panama Canal as to give preference to American vessels. Decision—Roanoke Affirmative won 2 to 1.

**University of Virginia.** Charlottesville. Non-Sectarian. C. W. Paul, Dept. of Public Speaking, Coach. D. H. Rodgers, Mgr. 1912-13. Primary System.

**Triangular**—Johns Hopkins University, Baltimore, Md., and University of N. Carolina, Chapel Hill, N. C. (See Johns Hopkins, Md.)

- Virginia Polytechnic Institute.** Blacksburg. Non-Sectarian.  
 Prof. W. H. Arnold, Coach. Primary system.  
 Annual Debate—Roanoke College, Salem, Va. (See Roanoke above.)
- Washington and Lee University.** Lexington. Non-Sectarian.  
 No report 1913.  
 Annual Debate—George Washington University, Washington, D. C. (See under District of Columbia.)  
 Triangular—University of Georgia, Athens, and Tulane University, New Orleans, La. (See under Georgia.)
- William and Mary College.** Williamsburg. Non-Sectarian.  
 No coach. K. A. Agie, Mgr. 1912-13. Primary trials in literary societies.  
 Triangular—Randolph-Macon College, Ashland, Va., and Richmond College, Richmond, Va. (See Randolph-Macon above.)

### WASHINGTON

- University of Washington.** Seattle. Non-Sectarian. Leo Jones, Coach. Ralph Horr, Mgr. 1912-14. Primary system.  
 No report 1913.  
 Triangular—Leland Stanford University, Palo Alto, Calif., and University of Oregon, Eugene, Ore. (See Oregon.)  
 Triangular—Washington State College, Pullman, and Whitman College, Walla Walla, Wash. (See Whitman College below.)  
 Annual Debate—Girls—University of Oregon, Eugene. (See Oregon.)  
 Annual Debate—Girls—Whitman College, Walla Walla, Wash. (See Whitman College below.)
- Washington State College.** Pullman. Non-Sectarian. No report 1913.  
 Triangular—University of Washington, Seattle, and Whitman College, Walla Walla, Wash. (See Whitman College below.)  
 Annual Debate—Girls—Whitman College, Walla Walla. (See Whitman College below.)  
 Annual Debate—University of Montana, Missoula. (See Montana.)
- Whitman College.** Walla Walla. Non-Sectarian. No regular coach. Prof. W. A. Bratton in charge. Roland Baintor,

Mgr. 1912-13. William Berney, Mgr. 1913-14. Primary system.

**Triangular**—University of Washington, Seattle, and Washington State College, Pullman. Two men teams. Date—March 21, 1913. Question—Resolved, that in the state of Washington revenues for local purposes should be raised by a tax levied against land values only. Decisions—At Walla Walla, Whitman Affirmative won from Washington State College 2 to 1. At Seattle, University Affirmative won from Whitman 3 to 0. At Pullman, Washington State College Affirmative won from University 3 to 0.

**Annual Debate—Girls**—University of Washington, Seattle. Two on teams. Date—May 3, 1913. Question—Educational test for immigrants entering the United States. University won 3 to 0.

**Annual Debate—Girls**—Washington State College, Pullman. Question—Minimum wage legislation. Debate held after report was sent in.

### WEST VIRGINIA

**West Virginia Wesleyan.** Buckhannon. Methodist. Miss Minna Lawrence Harding, Coach. Fay Smith, Mgr. 1912-13. Debaters chosen by coaches in primary.

**Annual Debate**—Grove City College, Grove City, Pa. Two men teams. Date—April 4, 1913. Place—Buckhannon. Question—Resolved, that corporations doing an interstate business should be regulated by a federal commission similar to the Interstate Commerce Commission. Constitutionality conceded. Decision—W. Va. Wesleyan Affirmative won 3 to 0.

**Dual Debate**—Marietta College, Marietta, Ohio. Two men teams. Date—May 9, 1913. Question—Resolved, that the principle of recall should be applicable to all persons elected to public office by the people. Decisions—At Buckhannon, Marietta Affirmative won 2 to 1. At Marietta, W. Va. Wesleyan Affirmative won 3 to 0.

### WISCONSIN

**Beloit College.** Beloit. Non-Sectarian. C. D. Crawford, Coach. Charles T. Way, Mgr. 1912-13. Primary system. Literary societies.



**Triangular**—Knox College, Galesburg, Ill., and Cornell College, Mt. Vernon, Ia. Three men teams. Date—April 18, 1913. Question—Resolved, that immigration into the United States should be further restricted by an illiteracy test. Decisions—At Beloit, Cornell Negative won 3 to 0. At Galesburg, Beloit Negative won from Knox 2 to 1. At Mt. Vernon, Knox Negative won from Cornell 2 to 1.

**Freshmen Triangular**—Lawrence College, Appleton, Wis., and Ripon College, Ripon, Wis. Date—May 2, 1913. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decisions—At Beloit, Lawrence College won on Negative 3 to 0. At Ripon, Beloit College won on Negative 2 to 1. At Appleton, Lawrence Affirmative won from Ripon 3 to 0.

**Annual Debate**—Albion College, Albion, Mich. Three men teams. Date—Jan. 17, 1913. Place—Albion. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Albion Affirmative 2 to 1.

**Carroll College.** Waukesha. Presbyterian. Miss May N. Rankin, Coach. Paul S. Johnson, Mgr. 1912-13. Ray B. Weaver, Mgr. 1913-14. Primary system.

**Triangular**—Augustana College, Rock Island, Ill., and Northwestern College, Naperville, Ill. Three men teams. Date—April 18, 1913. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decisions—At Waukesha, Carroll College Affirmative won from Northwestern 2 to 1. At Rock Island, Carroll Negative won from Augustana 3 to 0. At Naperville, Northwestern Affirmative won from Augustana 2 to 1.

**Annual Debate**—Ripon College, Ripon, Wis. Three men teams. Date—April 11, 1913. Place—Waukesha. Question—Resolved, that all corporations engaged in interstate commerce should be compelled to take out federal charters on such terms as Congress may, by law, prescribe. Constitutionality conceded. Decision—Carroll College Affirmative 2 to 1.

**Annual Freshmen Debate**—Milton College, Milton, Wis. Three men teams. Date—April 17, 1913. Place—Milton. Question—Resolved, that all corporations engaged in interstate commerce should be compelled to take out federal charters

on such terms as Congress may, by law, prescribe. Constitutionality conceded. Decision—Milton Affirmative won 2 to 1.

**Lawrence College.** Appleton. Methodist Episcopal. F. Wesley Orr, Coach. Paul Amundson, Mgr. 1912-13. Primary system.

**Annual Debate—Albion College,** Albion, Mich. Three men teams. Date—April 4, 1913. Place—Appleton. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Albion College Affirmative 2 to 1.

**Annual Debate—St. Olaf College,** Northfield, Minn. Three men teams. Date—March 7, 1913. Place—Appleton. Question—Resolved, that the policy of fixing a minimum wage by state boards is desirable. Decision—Lawrence Negative 3 to 0.

**Freshmen Triangular—Beloit College,** Beloit, Wis., and Ripon College, Ripon, Wis. (See Beloit above.)

**Milton College.** Milton. Seventh Day Baptist. L. H. Stringer, Coach. G. A. White, Mgr. 1912-13. Primary system.

**Annual Debate—Ripon College,** Ripon, Wis. Three men teams. Date—April 9, 1913. Place—Milton. Question—Resolved, that all corporations engaged in interstate commerce should be compelled to take out federal charters on such terms as Congress may, by law, prescribe. Constitutionality conceded. Decision—Milton College Negative 2 to 1.

**Annual Freshmen Debate—Carroll College,** Waukesha, Wis. (See Carroll College above.)

**Oshkosh Normal School.** Oshkosh. Non-Sectarian. F. R. Clow, Coach. Chas. R. Meyer, Mgr. 1912-13. Primary system.

**Triangular—State normal schools of Illinois,** Normal, Ill., and Indiana, Terre Haute, Ind. Three men teams. Date—April 25, 1913. Question—Resolved, that the several states should so readjust their systems of taxation as to exempt personal property and improvements on land from all taxation. Decisions—At Oshkosh, Oshkosh Affirmative won from Illinois 2 to 1. At Terre Haute, Indiana Affirmative won from Oshkosh 3 to 0. At Normal, Indiana Negative won 3 to 0.

**Annual Debate—Stevens Point Normal,** Stevens Point, Wis.

Three men teams. Date—March 14, 1913. Place—Oshkosh. Question—Resolved, that immigration from Europe should be further restricted by law. Decision—Stevens Point Negative 2 to 1.

**Ripon College.** Ripon. Non-Sectarian. E. R. Nichols, Coach 1912-13. On leave of absence 1913-14. Fred C. Maynard, Mgr. 1912-13. Primary system.

**Triangular Debate**—Carleton College, Northfield, Minn., and South Dakota Wesleyan, Mitchell, S. Dak. Three men teams. Date—April 25, 1913. Question—Resolved, that all corporations engaged in interstate commerce should be compelled to take out federal charters on such terms as Congress may, by law, prescribe. Constitutionality conceded. Decisions—At Ripon, Carleton College Negative won 2 to 1. At Mitchell, Ripon Negative won from S. Dakota Wesleyan 3 to 0. At Northfield, Carleton Affirmative won from S. Dakota Wesleyan 3 to 0.

**Annual Debate**—Milton College, Milton, Wis. (See Milton above.)

**Annual Debate**—Carroll College, Waukesha, Wis. (See Carroll College above.)

**Freshmen Triangular**—Beloit College, Beloit, Wis., and Lawrence College, Appleton, Wis. (See Beloit College above.)

**Stevens Point Normal School.** Stevens Point. Non-Sectarian. No report 1913.

**Annual Debate**—Oshkosh Normal, Oshkosh, Wis. (See Oshkosh above.)

**University of Wisconsin.** Madison. Non-Sectarian. Rollo L. Lyman, Coach 1912-13. Resigned. Primary system. No report 1913.

**Pentangular**—Universities of Illinois, Iowa, Minnesota, and Nebraska. Wisconsin met Iowa and Nebraska in 1913. (See under Iowa and Nebraska.)

## WYOMING

**University of Wyoming.** Laramie. Non-Sectarian. No report 1913.

**Annual Debate**—University of Denver, Denver, Colo. (See under Colorado.)

## APPENDIX III.

**Table Showing Number of Times Various Debate Subjects were Discussed in 1912-13, and the Number of Affirmative and Negative Decisions.**

SUBJECT.	NO. TIMES DEBATED.	DECISION		NOT REPORTED.
		AFF.	NEG.	
Aldrich plan, central bank .....	16	12	4	
Arbitration, compulsory .....	12	5	6	1
Bankruptcy, repeal of federal law .....	1		1	
Cabinet Officers in Congress .....	3	2	1	
Capital Punishment .....	3	2	1	
Centralization of power, in federal government	5	3	2	
Centralization of power, in France .....	1			1
Central Reserve Association—See Aldrich plan.				
Constitution, make amendment easier .....	2	2		
Education, Against Scientific .....	2	2		
Federal charter for corporations .....	14	9	5	
Government ownership, of coal mines .....	2	2		
Government ownership of railroads .....	2	1	1	
Government, parliamentary vs. presidential ..	6	4	1	1
High cost of living, occasioned by .....	2			
tariff (1) .....		1		
Army and Navy .....			1	
Immigration, further restriction of .....	10	2	6	2
Income tax, state .....	3	3		
Initiative and Referendum .....	4	3	1	
Initiative, Referendum and Recall .....	4	3	1	
Insurance, Compulsory Accident .....	5	2	3	
Insurance, Compulsory Old Age .....	3		3	
Labor Unions, Inimical to best interests .....	5	4	1	
Minimum Wage, by state boards .....	9	5	4	
Minimum Wage, legislation .....	6	2	3	1
Total .....	15	7	7	1

SUBJECT.	NO. TIMES DEBATED.	DECISION		NOT REPORTED.
		AFF.	NEG.	
Municipal government, Commission plan ....	17	3	14	
Newspaper, Endowed .....	1		1	
Panama Canal tolls, exemption of American coastwise trade .....	16	8	6	2
Pennsylvania, new constitution for .....	1	1		
Philippines, independence for .....	6	4	2	
President, Six year term for .....	9	5	4	
Recall,				
of elective officers .....	1	1		
of judges .....	23	7	14	2
of judicial decisions .....	20	11	8	1
Total .....	44	19	22	3
Senators, election by direct vote .....	1		1	
Ship subsidy .....	1	1		
States rights .....	2	1	1	
Suffrage, educational requirement for .....	1		1	
Suffrage, Woman .....	5	3	2	
Summer baseball for conference players .....	1		1	
Tariff,				
Abandonment of the protective .....	6	4	2	
for revenue only .....	10	6	4	
responsible for high cost of living .....	1	1		
Total .....	17	11	6	
Tax, Exemption from of personal property ..	3	2	1	
Income—for state .....	3	3		
Single .....	3	2	1	
Total .....	9	7	2	
Trusts,				
Regulation of competition, a solution....	1	1		
Regulation of by commission .....	4	3	1	
Regulation vs. dissolution or Sherman law	11	7	4	
Repeal of the Sherman law .....	7	5	1	1
Total .....	23	16	6	1

## **APPENDIX IV.**

### **Specimen Debate Contracts and Agreements, Constitutions of Debating Organizations, etc.**

- 1. Pentangular—Constitution, Central Debating Circuit.**
- 2. Quadrangular—Summary, Constitution of the Pennsylvania League.**
- 3. Triangular—Agreement of the Tri-State Debating League.**
- 4. Dual Debate—Agreement, Kansas Agricultural College and Fairmount College.**
- 5. Dual Debate—Contract, University of Redlands and Whittier College, California.**
- 6. Annual Debate—Agreement, Milton and Ripon Colleges, Wisconsin.**

#### **I.**

### **CONSTITUTION OF THE CENTRAL DEBATING CIRCUIT.**

#### **ARTICLE I. OBJECT.**

The object of this organization shall be to foster interest in debate by holding an annual contest in December on the Friday evening one week before the opening of the holiday recess.

#### **ARTICLE 2. DEBATING BOARDS.**

Each university shall create a debating board, a majority of whose members shall be of the faculty. The members of this board shall be chosen annually as each university may deem wise. The debating board shall have general supervision of all debating matters of the league affecting its university.

#### **ARTICLE 3. QUESTIONS.**

On April first each university shall submit to each of the others a question properly stated for debate. On April fifteenth each

university shall send the five questions to each of the others arranged in the order of its choice. The question ranked the highest by all the universities shall be debated by all the teams. In case of a tie, the selection from the tying questions shall be made by the President of Yale University.

#### ARTICLE 4. TIME AND ORDER OF SPEAKERS.

Each speaker shall have seventeen minutes; twelve minutes for opening and five for rebuttal, but the order of rebuttal speeches on either side may be changed at the wish of the speakers on that side. The negative shall lead in rebuttal.

#### ARTICLE 5. JUDGES. SCHEDULE OF CONTESTS.

(Contests for 1906-7.)

Contesting States.	Places of Contest.	Residence of Judges.
1. Minnesota .....	Iowa City .....	Illinois
Iowa		Nebraska
2. Nebraska .....	Urbana .....	Iowa
Illinois		Wisconsin
3. Iowa .....	Madison .....	Illinois
Wisconsin		Minnesota
4. Illinois .....	Minneapolis .....	Iowa
Minnesota		Wisconsin
5. Wisconsin .....	Lincoln .....	Iowa
Nebraska		

(Contests for 1907-8.)

1. Illinois .....	Iowa City .....	Minnesota
Iowa		Nebraska
2. Wisconsin .....	Urbana .....	Iowa
Illinois		
3. Minnesota .....	Madison .....	Illinois
Wisconsin		Iowa
4. Nebraska .....	Minneapolis .....	Wisconsin
Minnesota		
5. Iowa .....	Lincoln .....	Minnesota
Nebraska		

## (Contests for 1908-9.)

- |              |             |           |
|--------------|-------------|-----------|
| 1. Wisconsin | Iowa City   | Illinois  |
| Iowa         |             | Nebraska  |
| 2. Minnesota | Urbana      | Wisconsin |
| Illinois     |             | Iowa      |
| 3. Nebraska  | Madison     | Illinois  |
| Wisconsin    |             | Minnesota |
| 4. Iowa      | Minneapolis | Wisconsin |
| Minnesota    |             | Nebraska  |
| 5. Illinois  | Lincoln     | Iowa      |
| Nebraska     |             |           |

## (Contests for 1909-10.)

- |              |             |           |
|--------------|-------------|-----------|
| 1. Nebraska  | Iowa City   | Minnesota |
| Iowa         |             | Illinois  |
| 2. Iowa      | Urbana      | Wisconsin |
| Illinois     |             |           |
| 3. Illinois  | Madison     | Minnesota |
| Wisconsin    |             |           |
| 4. Wisconsin | Minneapolis | Nebraska  |
| Minnesota    |             | Iowa      |
| 5. Minnesota | Lincoln     | Iowa      |
| Nebraska     |             |           |

On April first each university shall submit judges according to the above schedules. When a single state furnishes the judges for any contest it shall submit a list of twenty-four names to each of the two competing universities. These lists shall be duplicates. When two states furnish the judges they shall each submit a list of twelve names.

When a state furnishes judges for two or more contests it shall make up its several lists as impartially as possible with reference to the distribution of able men. Convenience and economy for the attending judges shall be a factor in their nomination in so far as may be consistent with the choice of able men.

Not later than the first of October preceding the contest the visiting university shall send to the entertaining university a list



of six candidates for judges chosen from the proper rolls. Not later than the same date the entertaining university shall send to its opponent a list of twelve judges chosen from the proper rolls. Each university shall arrange the opponent's list of candidates in the order of its choice.

Each university shall have the right to challenge any or all of the number of the candidates submitted by its opponent on presentation of good and sufficient reason. The challenge list, together with objections, shall be returned at once to the sender. The list shall be completed and resubmitted not later than October twentieth.

It is further understood that any person recommended for judge who is a relative, actual or prospective, of any contestant, or who is an alumnus of either university, or who holds or who has held, any official relation with either university, may be rejected.

The secretary of the entertaining university shall notify the judges by joint note, the form of which shall be as follows:

The state universities of \_\_\_\_\_ and \_\_\_\_\_ will hold a joint debate at \_\_\_\_\_ on \_\_\_\_\_. The specific wording of the proposition for the debate is, "Resolved, that etc. . . ." We shall consider ourselves especially favored if you can be with us at \_\_\_\_\_ to hear and judge this contest. (Insert a sentence here stating the names of the other judges who have been invited or who have consented to serve.) We shall, of course, meet your entire expense. Trusting that we may have an early and favorable reply, we remain,

Respectfully yours,

---

University of

---

University of

The entertaining university shall sign the names of both secretaries to the letter and shall enclose a stamped envelope addressed to each for reply.

Before the contest the judges shall be entertained at a hotel and every semblance of an effort to influence them will be regarded as dishonorable conduct.

The secretary will secure two judges from the list of the enter-

taining university and one from the list of the opponent adhering strictly to the order recommended by the respective universities. But if any name or names should be found on both lists they shall be first invited to serve.

The university submitting a list of names shall always report on the qualifications of the judges in the following respects:

1. Occupation. 2. Where educated. 3. Politics. 4. Religion.
5. Official relations with any university of the league at any time.

#### ARTICLE 6. INSTRUCTIONS TO JUDGES.

Each judge shall be instructed to decide for himself what constitutes effective debate, except that he shall consider both thought and delivery; without consultation he shall vote affirmative or negative on the merits of the debate, *not on the merits of the question*. He shall sign, seal, and deliver his vote to the presiding officer who shall open the votes and announce the decision.

#### ARTICLE 7. EXPENSES.

Each university shall pay all expenses of its own debaters. All other expenses of the contest shall be paid by the entertaining university.

#### ARTICLE 8. CONDUCT OF THE DEBATES.

In the contests of this league all communication with the debaters by prompting or otherwise, is forbidden; also, the introduction of both private correspondence and charts is debarred.

#### ARTICLE 9. AMENDMENTS.

This constitution may be amended by the authorized representatives of the universities at any official meeting or by correspondence providing twenty days notice be given of the changes desired.

## II.

### SUMMARY OF CONSTITUTION OF INTERCOLLEGIATE DEBATING LEAGUE OF PENNSYLVANIA.

This league is composed of the following colleges: Dickinson, Franklin & Marshall, State, and Swarthmore College. Each college shall organize as it may choose and shall have one repre-

sentative on the Executive Committee of the League. Regular meetings of the Executive Committee shall be held once every three years.

**Debates:**—Four debates shall be held each year on the first Friday in March. The plan shall be that of the "round robin," each college meeting each of the other colleges twice in a period of three years. Each college shall be represented by an affirmative and a negative team, the negative team always debating at home.

**Contestants:**—Each college shall be represented by three debaters, to be regularly enrolled students taking at least ten hours of college work per week and official college certification of these facts shall be furnished by each team before every debate. Each debater shall have seventeen minutes in each debate, ten in opening and seven in rebuttal. The negative shall have first speech in rebuttal.

**Selection of Question:**—Each college, except the one from which the secretary of the Executive Committee is elected, shall send to the secretary not later than the tenth of October each year a question for debate. From the three questions, the secretary shall decide on one.

**Judges:**—There shall be three judges, selected by conference between the committeemen of the two colleges to debate. The judges shall make their decision separately and without conference, handing a sealed vote to the presiding officer who shall declare the side winner which has received the majority of the votes.

**Expenses:**—Each college shall pay the expenses of the home debate. The expenses of the Executive Committee at its meetings shall be paid by the league.

**Trophy:**—A trophy shall be awarded each year to the college winning the greatest number of contests. At the end of three years, the trophy shall become the permanent possession of the college then in the lead. In case of a tie, it shall be awarded as soon as one college shall be in the lead.

## III.

CONSTITUTION OF THE TRI-STATE DEBATING  
LEAGUE.

## ARTICLE I. NAME.

This organization, composed of Carleton, Ripon, and South Dakota Wesleyan colleges, shall be known as the "Tri-State Debating League."

## ARTICLE 2. OBJECT.

It shall be the object of this league to foster an interest in debate by holding annual contests as herein provided for.

## ARTICLE 3. OFFICERS.

Each college of the league shall create a debate board, at least one-third of whose members shall be members of the faculty.

## ARTICLE 4. DUTIES OF OFFICERS.

Each local board shall have general supervision of local debate matters, shall pass upon eligibility of local debaters, shall act for its college in the choice of questions and judges, and shall name a representative of the board who shall act for it whenever conferences of the three schools are deemed necessary.

## ARTICLE 5. SCHEDULE OF CONTESTS.

Section 1. There shall be three annual contests in the league, on the same evening, one at each college, these contests to be held on the fourth Friday in April.

Section 2. The same question shall be used in all three of the contests; the visiting teams shall take the negative side.

Section 3. The schedule of contests shall be as follows:

In 1913, South Dakota Wesleyan vs. Carleton at Northfield.

South Dakota Wesleyan vs. Ripon at Mitchell.

Carleton vs. Ripon at Ripon.

In 1914, South Dakota Wesleyan vs. Carleton at Mitchell.

South Dakota Wesleyan vs. Ripon at Ripon.

Carleton vs. Ripon at Northfield.

**ARTICLE 6. SELECTION OF THE QUESTION.**

**Section 1.** Each debate board shall submit to each of the other boards, not later than November 15, one question properly stated for debate.

**Section 2.** Each debate board shall indicate to each of the others not later than December 1, its choice in order of preference by percentages (on the scale of 100, marking no question lower than 90%) and by ranking in one, two, and three order.

**Section 3.** (a) If any question be marked first by two of the colleges it shall be the choice. (b) If no choice is made by the first method, that question shall be chosen the sum of whose ranks is lowest. (c) If no choice is made by either of the first or second methods, that question shall be considered whose total percentage is highest.

**ARTICLE 7. JUDGES.**

**Section 1.** Not later than January 15 in each year, the visiting colleges in each contest shall send to the respective entertaining college a list of nine candidates for judges, and the entertaining colleges shall at the same time send to the respective visiting college a list of eighteen candidates for judges. Each college shall have the right to challenge any or all of the candidates submitted by its opponent and to request other names, if desired, to complete the list. Notices of each challenge shall be given within two weeks of the receipt of the nomination.

**Section 2.** No relative of any contestant, no alumnus of any college participating, and no person who holds or ever has held any official relation with either of the contesting colleges shall be eligible for appointment as judge. A copy of this section shall be sent to each person who is invited to act as judge. (Ed. note—This last clause has not always been adhered to, as it has proved a little embarrassing.)

**Section 3.** Convenience and economy for the attending judges shall be a factor in their nomination in so far as may be consistent with the choice of able men.

**Section 4.** The college submitting a list of names shall always report on the qualifications of the judges in each of the following

respects: occupation, where educated, politics, religion, official relations with any college of the league at any time.

Section 5. Upon the completion of a satisfactory list of judges, each college shall arrange its opponent's list of candidates in the order of its own choice notifying its opponent of such order of preference at least one month before the date of the debate.

Section 6. The secretary of the entertaining college shall secure two judges from the list of the entertaining college, and one judge from the list of the visiting college, adhering strictly to the order recommended by the respective institutions. But if any name or names be found on both lists, they shall first be invited to serve.

Section 7. The secretary of the entertaining college shall invite the judges by a joint note in the following form:

— and — colleges will hold a joint debate at — on —.  
The specific wording of the question is . . . .

We shall consider ourselves especially favored if you can be with us at — to hear and judge this contest. We shall, of course, meet your entire expense.

Trusting that we may have an early and favorable reply, we remain,

Respectfully yours,

.....  
College.

.....  
College.

The secretary at the entertaining college shall sign the name of both secretaries to the letter, and enclose a stamped envelope addressed to each for reply.

Section 8. Before the contest the judges shall be entertained at a hotel, and every semblance of an effort to influence them will be regarded as dishonorable conduct.

#### ARTICLE 8. CONDUCT OF CONTESTS.

Section 1. Each contest shall be presided over by a chairman chosen by the home college and acceptable to the visiting team whose duty it shall be to enforce the rules of debate.

Section 2. Each college shall send to a contest in which it

participates three representatives. Any undergraduate who is regularly enrolled for at least twelve hours of academic work, and is in good standing in one of the colleges of the league, shall be eligible to represent his college in league contests.

Section 3. Time and Order of Speeches. Each debater shall have seventeen minutes, twelve minutes for his opening and five minutes for his rebuttal speech, except that the last rebuttal speaker on each side shall have seven minutes. The first main speech shall be made by the affirmative; the first rebuttal speech by the negative. No new direct argument shall be introduced in the rebuttal speeches.

Section 4. Conduct. In the contests of this league, all communication with debaters, by prompting or otherwise, is forbidden.

Section 5. Decision. Each judge shall be instructed to decide for himself what constitutes effective debating, except that he shall consider both thought and delivery. Without consultation he shall vote affirmative or negative on the merits of the debate, *not on the merits of the question*. He shall sign, seal, and deliver his vote to the presiding officer, who shall open the votes and announce the decision. A copy of this section shall be printed on the judge's ballot.

#### ARTICLE 9. EXPENSES.

Each college shall pay all the expenses of its own debaters. All other expenses of any contest, judges, presiding official, etc., shall be borne by the entertaining college.

#### ARTICLE 10. AMENDMENTS.

This constitution may be amended by the authorized representatives of the colleges at any special meeting at which all are present or by correspondence provided twenty days' notice be given of the changes desired.

## IV.

**DUAL DEBATE AGREEMENT. KANSAS STATE AGRICULTURAL COLLEGE-FAIRMOUNT COLLEGE.****ARTICLE I. CONTRACT.**

By this contract, Fairmount College of Wichita, Kansas, and the Kansas State Agricultural College of Manhattan, Kansas, agree to a series of simultaneous debates according to the following plan.

**ARTICLE II. TERM.**

This agreement shall continue in force for two (2) years.

**ARTICLE III. GENERAL REGULATIONS.**

Section 1.—Each college shall be represented by two (2) teams.

Section 2.—Each team shall consist of three (3) bona fide college students of undergraduate rank.

Section 3.—Two debates shall be held annually, both on the same night, one at each of the contesting colleges.

Section 4.—The same proposition shall be used in both debates occurring on the same night, the local team in each case defending the affirmative.

**ARTICLE IV. TIME.**

These debates shall be held on the evening of the second Friday in April, in 1912 and 1913.

**ARTICLE V. SPECIAL REGULATIONS.**

Section 1.—Each contestant in each debate shall be allowed one constructive speech, fifteen (15) minutes long.

Section 2.—Each side in each debate shall be allowed one rebuttal speech, seven (7) minutes long, the affirmative closing in rebuttal.

Section 3.—No new constructive argument shall be permitted in rebuttal, nor shall the development of arguments already advanced by that side be permitted; but such argument, new or old, as is necessary to overthrow the argument of the opposition, shall be allowed.



Section 4.—The local college in each debate shall choose and provide the presiding officer.

Section 5.—Each team participating in each debate shall provide a time-keeper.

#### ARTICLE VI. THE PROPOSITION.

Section 1.—In 1911-12, Fairmount shall submit to K. S. A. C. three different propositions, from which the latter shall choose the proposition for debate.

Section 2.—In 1912-13, K. S. A. C. shall submit three propositions, and from these Fairmount shall select the proposition for debate.

Section 3.—In each case the proposition shall be submitted before the fifteenth (15) of November, and notifications of the final selection made before December first.

#### ARTICLE VII. JUDGES.

Section 1.—There shall be three judges in each debate, and no debate shall be allowed to start unless three judges are present.

Section 2.—These judges shall render their decisions by a sealed ballot, without consultation, one with another.

Section 3.—In case a judge wishes to vote for the affirmative side in a debate, he shall write the word "affirmative" upon his ballot, and nothing else. In case he wishes to vote for the negative, he shall write the word "negative" only. In every case he shall sign his name to the ballot.

Section 4.—The judges for each debate shall be procured in the following manner: Seventy-five (75) days before the annual debate, each college shall submit to the other a list of fifteen (15) names of desirable men. After receiving these lists, each college shall be allowed twenty (20) days and twenty (20) days only, to protest any name or names thereon. Then, from the list thus received the home college in each case shall procure two (2) judges, and from the list which it sent to the visiting school it shall procure one. In case either of these lists is exhausted before all of the judges are secured, a new list shall be obtained in a like manner.

Section 5.—No person shall be named as judge, who shall at

any time have had any connection with either college, either as officer, teacher, student, or parent of student.

Section 6.—The judges, in grading shall use the following percentage: twenty-five (25) percent on delivery and seventy-five (75) percent on thought and composition.

ARTICLE VIII. FINANCES.

Section 1.—The home college shall in each case pay the traveling expenses of, and provide entertainment for, the visiting team.

Section 2.—All other expenses connected with each contest shall be borne by the home college.

Section 3.—The profits accruing from each contest shall go to the home college.

Signed .....

For K. S. A. C.

.....

For Fairmount.

DUAL DEBATE CONTRACT. UNIVERSITY OF REDLANDS-WHITTIER COLLEGE.

RULE I. ORGANIZATION.

1. This agreement between the University of Redlands and Whittier College shall be for a dual debate, one contest to be held at Redlands and one at Whittier, the two contests to be held on the same evening.

2. Each school shall debate the affirmative and negative sides of the question, the team debating the affirmative remaining at home.

RULE 2. THE DEBATERS.

1. The number of debaters representing each school shall be four (two on each team). Each speaker shall be allowed eighteen minutes for his main argument. After all the main arguments have been given the first speaker on the affirmative shall be allowed five minutes for rebuttal. A two minute warning shall be given each speaker in his main argument and a one minute warning in the rebuttal.

2. The members of the teams shall be regularly enrolled undergraduate students who are doing satisfactory work in at least twelve hours of recitation per week.

3. The debating managers of the respective colleges shall present statements, signed by the presidents of the two institutions, certifying that the debaters are qualified according to the second section of this rule.

#### RULE 3. JUDGES.

1. There shall be three judges at each debate.

2. These judges shall be selected in the following manner: Each school shall submit to the other a list of fifteen names of persons eligible to act as judges under sections 3, 4, and 5 of this rule.

The judges for each debate shall be chosen from the list submitted by the entertaining school, but the opposing school shall name the order in which they shall be asked to serve, number first choice "one," second choice, "two," etc. Upon the indication of choice, the lists shall be returned, and the originators of the lists shall secure the judges as provided in section three of this rule. In case of names being duplicated on the lists, the judge shall go to the school nearest his residence.

3. In securing men to serve as judges, the debating manager of the entertaining school shall follow the order of choice indicated by the visiting school, and shall send written invitations signed by himself.

4. The judges shall not be residents of the community in which either school is located. They shall not be students, nor shall they have any relations whatsoever with any of the contestants or either of the institutions concerned in this agreement.

5. At the debates, the judges shall be seated apart from each other and as nearly as possible in neutral territory. The seating shall be made satisfactory to both schools.

#### RULE 4. THE DECISION.

1. The judges shall mark the speaker, who in their judgment is best, 100%, judging on argument, plan, and delivery, allowing sixty per cent. for argument and forty for plan and delivery.

The other speakers shall be graded by percentages upon a comparative basis.

2. The tellers at each debate shall add together the number of points given to the debaters of the affirmative and negative respectively and the school having the most points shall be given the decision. The points given the affirmative and negative in each debate shall be added and divided by three and the school having the highest average percentage shall be given the decision for the dual meet.

3. The assistant-manager accompanying the visiting team shall communicate the decision to his own school immediately following the close of the debate in order that the winner of the dual debate may be ascertained.

#### RULE 5. OFFICERS AND DUTIES.

1. There shall be a debate manager elected at each school, and each visiting team shall be accompanied by the manager or an assistant manager.

2. There shall be a presiding officer selected by the debate managers of the respective schools for each debate. It shall be the duty of the presiding officers to preserve order, announce the speakers, and enforce the rules of this agreement. He shall not allow applause during the speeches.

#### RULE 6. EXPENSE.

Each school shall pay the expenses of its own debaters, but all other expenses of each debate shall be borne by the entertaining school.

This agreement is satisfactory to the — student body.

(Signed) .....  
Debate Manager, — College.

### ANNUAL DEBATE. AGREEMENT BETWEEN RIPON AND MILTON COLLEGES, WISCONSIN.

The Oratorical Union of Ripon College and the Oratorical Association of Milton College do hereby agree to meet each other in two joint debates upon the terms and conditions hereinafter set forth.

**I. OFFICERS AND TEAMS.**

1. Each school shall be represented by a team composed of three men and one alternate. Only bona fide students shall be eligible to a position on any team. A bona fide student shall be an undergraduate carrying a regular course of study at his school, or one carrying successfully twelve hours of college work or the equivalent thereof during the semester in which the debate is held.

2. Each school shall elect a debate manager or chairman, whose duty it shall be to correspond and confer with each other concerning the arrangements for the debates.

3. A time-keeper shall be chosen at each school, whose duty it shall be to keep track of the time of speaking for each speaker and give the warnings agreed upon.

**II. ORDER AND TIME OF SPEAKING.**

1. The order of speaking in each debate shall be as follows: Affirmative, Negative, Affirmative, Negative, Affirmative, Negative, Negative Rebuttal, Affirmative Rebuttal, Negative Rebuttal, Affirmative Rebuttal, Negative Rebuttal, Affirmative Rebuttal. The first six speeches shall be limited to twelve minutes each, the first four rebuttal speeches to five minutes each, and the last two rebuttal speeches to seven minutes each.

**III. DATE OF DEBATES.**

1. The first debate shall be held at Milton College, Milton, Wis., April 9 or 10, 1913, and the second debate at Ripon, Wis., at some time during the school year 1913-14 to be mutually agreed upon.

**IV. CHOICE OF QUESTION AND OF SIDES.**

1. The question for the first debate (to be held April 9 or 10, 1913) shall be:—Resolved, that all Corporations engaged in Interstate Commerce should be required to take out a federal charter on such terms as Congress may, by law, prescribe, constitutionality granted.

2. Ripon College shall take the Affirmative and Milton College the Negative of this question in the first debate.

3. For the second debate Milton College shall have the choice of submitting a question for Ripon to choose sides upon, or, of choosing sides upon a question submitted by Ripon. Milton College shall notify the Debate Chairman of Ripon College of its choice on or before the 15th day of October, 1913.

4. The question for the second debate shall be submitted by the last Friday in November, 1913, and the school having choice of sides shall make that choice known to the other school within three weeks after receiving the question for debate.

#### V. JUDGES.

1. Not later than six weeks before the date agreed upon for the debate by the two schools, the entertaining school shall submit a list of twenty names of persons suitable for judges to the visiting school, and the visiting school shall submit a list of ten names to the entertaining school. Two judges shall be chosen from the list of twenty and one from the list of ten. Each school shall rank the list of judges received in the order of its preference and return it to the other school at least two weeks before the date of the debate. The judges shall be invited in the order of this preference. Each school may exercise unlimited power of protest against names submitted for judges, and new names shall be offered until satisfactory judges are obtained.

2. No relative of any contestant, no alumnus of either college, and no person who holds or who has held any official position with either college, shall be eligible for appointment as judge.

3. Convenience and economy for the attending judges shall be a factor in their nomination in so far as shall be consistent with the choice of able men.

4. The college, when submitting the list of names, shall report on the qualification of the candidates for judges in the following respects: (a) Occupation, (b) Where educated, (c) Politics, (d) Church Affiliation, (e) Relations with either college at any time.

5. The debate chairman of the entertaining college shall invite two judges from the list of twenty and one from the list of ten following strictly the order of preference as provided for in Section I of this article, using the following form of joint note.

Ripon and Milton Colleges will hold a joint debate at — on —. The specific wording of the question is . . . . .

We shall consider ourselves especially favored if you can be with us at that time (repeat date) to hear and judge this contest. We shall, of course, meet your entire expense. Trusting that we may have an early and favorable reply, we are,

Sincerely yours,

.....Ripon College.

.....Milton College.

The debate chairman of the entertaining college shall sign the names of both chairmen to the letter and shall enclose two stamped envelopes for reply, one addressed to each official.

6. Before the debate the judges shall be entertained at a hotel and any semblance of an effort to influence their decisions shall be regarded as a dishonorable act and cause for the cancelling of this contract.

#### VI. CONDUCT OF CONTEST.

1. Each contest shall be presided over by a chairman chosen by the entertaining college and acceptable to the visiting team, whose duty it shall be to enforce the rules of the debate.

2. The time-keepers shall use a stop watch, and shall have large cards numbered from 1 to 12, which they shall keep in view of the speakers at all times during the debate, thus indicating the amount of time left for each debater.

3. Any debater quoting from any authority on the subject under discussion shall upon the request of any member of the opposing team submit the source of his quotation or information to the inspection of his opponents.

4. No new arguments shall be admitted in the rebuttal speeches, but these speeches shall be concerned with meeting and answering opponents' arguments and with the restatement of constructive arguments.

#### VII. FINANCIAL ARRANGEMENT.

1. Each college shall pay the travelling expenses of its own team and time-keeper, and the entertaining college shall pay all

other expenses of the debate including the hotel expenses of the visiting team and its time-keeper, and the hotel and travelling expenses of the judges.

(Signed) .....Ripon College.  
.....Milton College.





## APPENDIX V.

### DEBATERS' BIBLIOGRAPHY OF ARGUMENTATION AND DEBATE.

(Supplementing the list of references given in Appendix IV,  
Intercollegiate Debates II. October 1911 to Sept. 1913.)

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# Intercollegiate Debates, Vol. I

EDITED, WITH AN INTRODUCTION, BY

PAUL M. PEARSON

PROFESSOR PUBLIC SPEAKING, SWARTHMORE COLLEGE

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